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Police interviews with suspects in police stations in England

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Police interviews with suspects in police stations in England

by

Fabio Ferraz de Almeida

A DOCTORAL THESIS

Submitted in partial fulfilment of the requirements for the award of

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Abstract

This thesis is about police interviews with suspects in England. The suspects in these interviews have been arrested in connection with their involvement in relatively low-level offences. They comprise incidents ranging from threatening behaviour, harassment and breach of bail conditions to criminal damage, theft and assault. They are certainly not the remarkable and dramatic cases which appear in the front pages of the newspapers and fill television programmes over the week; nonetheless they are hugely important to the fabric of law-in-action in our society, as they represent the most ordinary and mundane legal work in the context of the criminal justice system in England.

I draw upon a sample of 27 investigative interviews with suspects, recorded in audio as part of a standard police procedure for potential use in court. The data was transcribed and analysed within an ethnomethodological framework and using conversation analysis. My research focuses principally on three particular aspects of police-suspect social interactions: how police questioning is oriented to some key legal concepts, e.g. *actus reus*, *mens rea* and evidence, that underpin the decision about whether the event investigated was indeed a criminal offence; how suspects' narratives or accounts are co-constructed, i.e. negotiated, evaluated and transformed, in order to gain legal relevance – especially in terms of the legal concepts aforementioned; and the linguistic resources and the sense-making practices used by police officers to transform lay narratives or accounts into legal informed material.

My analysis is divided as follows. In chapter 4, I examine how police officers may elicit prejudicial information from suspects. In chapter 5, I describe in more detail how police officers transform and summarise what they themselves or the suspects have previously said in the interview. Following this, in chapter 6 and 7, I address two very particular defensive strategies adopted by suspects when questioned about their involvement in a criminal offence: portraying the incident as an accident and blaming the putative victim. I show that these social actions and practices are fundamental for understanding how legal concepts not only inform these interactions but are also constructed through them; they orient not only the nature but also the direction of the questioning and the criteria for building a case.

Table of Contents

Acknowledgements 2
Abstract 4
Table of Contents 5
Table of figures and tables 8
Chapter 1: Introduction 9
Chapter 2: Literature review: legal concepts and practices in legal settings 18
2.1 Introduction 18
2.2 Legal concepts 18
Actus reus 19
Causation 21
Mens rea 22
Legal concepts in action 23
2.3 Legal practices 25
The organisation of talk and actions in legal settings 26
Confessions, admissions and construction of versions 28
Police officers' activities 31
Suspects' activities 35
Power and authority 36
2.4 Conclusion 38
Chapter 3: Data and Methodology 39
3.1 Introduction 39
3.2 Data summary 39
3.3 Conversation analysis 47
Conversation analysis as a naturalistic approach 47
Conversation analysis transcripts: why so much detail? 49
Carrying out the analysis and building collections 52
Conversation analysis key concepts 53
Conversation analysis and the study of institutional talk 55
3.4 Summary 56
Chapter 4: Eliciting prejudicial information-as-evidence 58
4.1 Introduction 58
4.2 Progressivity of questioning 60
4.3 Constructing inconsistency 65

4.4 Conclusion 75
Chapter 5: Formulations in police interviews with suspects 77
5.1 Introduction 77
5.2 What are formulations and why studying them? 79
5.3 Police officers' self-attributed formulations 82
5.4 Police officers' other-attributed formulations 92
5.5 Conclusion 107
Chapter 6: Portraying an event as an accident 109
6.1 Introduction 109
6.2 Building versions and defensive strategies 110
6.3 Portraying an event as an accident 112
6.4 The description of the action 113
6.5 Building a context for the accident 122
6.6 Using agentless or impersonal constructions 124
6.7 The innocent uses or purposes of the items related to the incident 126
6.8 The disproportionality between the suspect's action and the victim's reaction 128
6.9 Conclusion 131
Chapter 7: Counter-denunciations 134
7.1 Introduction 134
7.2 Temporal character of narratives 137
7.3 Setting the scene: an ordinary background for an extraordinary event 140
7.4 The backstory: putting the event into a larger context 145
7.5 Descriptions of actions and conducts 150
7.6 Attributions of motives 152
7.7 Conclusion 157
Chapter 8: Conclusion 159
8.1 Summary of findings of each analytical chapter: 159
8.2 Contributions of my research 161
Contributions to socio-legal studies 161
Contributions to conversation analysis and ethnomethodology 163
8.3 Limitations and future research: 164
Language obstacles 164
Sample size 165
Video-based research and multimodality 165
Written reports 166

Applied and reform-oriented research 166
References 169
Appendix A: Jefferson transcription system 179
Appendix B: Police Report – MG5 form 180
Appendix C: Record Of Taped Interview – MG15 form 185

List of figures and tables

Figure 1: The process of transforming/formulating data 49

Table 1: Details of each interview 41
Table 2: Totals and data overview 45
Table 3: Types of formulations in police interviews 83
Table 4: Original descriptions and formulated versions 98
Table 5: Descriptions of actions 151

Chapter 1
Introduction

This thesis is the result of my research into police interviews with suspects in police stations in the Midlands, a region of central England. The suspects in these interviews have been arrested in connection with their involvement in relatively low-level criminal offences[1]. By 'low-level' I mean low-tariff or minor offences which are often punishable either by fine, community service, or very short-term imprisonment in extreme circumstances[2]. These cases are the meat and drink of ordinary police work, representing more than 90% of the crimes investigated by police which end up in court in England and Wales[3]. They comprise incidents ranging from threatening behaviour, harassment and breach of bail conditions to criminal damage, theft and assault. They are certainly not the remarkable and dramatic cases which appear in the front pages of the newspapers and fill television programmes over the week; nonetheless they are hugely important to the fabric of law-in-action in our society, as they represent the most ordinary and mundane legal work in the context of the criminal justice system in England.

There is no scarcity of research on police and police questioning. Indeed, there are several studies on police interviews and interrogations, from a variety of disciplines and which employ a wide range of methodologies[4]. Among these, one can find several studies which are largely concerned with questioning techniques, that is, how officers ask questions and how suspects respond to these enquiries. They are primarily concerned with the interactional aspects of these encounters, such as: how questions are formatted to perform particular interactional tasks (Cerovic, 2010; Stokoe, 2009a; Stokoe & Edwards, 2008), how interactants orient to the presence of the tape recorder as a 'silent participant' (Carter, 2011; Stokoe, 2009b) or the uses

[1] Some of the cases I have analysed in my research are about breaking 'civil behavioural orders'. They are not considered criminal offences in a narrow sense, although they are dealt with in criminal courts. Over the last two decades, several civil orders have been introduced to tackle criminal and sub-criminal behavior in England and Wales (Sanders et al., 2010).

[2] In the England and Wales judicial system, offences are divided into: summary, either way and indictable. Summary offences are the ones which are only triable without a jury in a magistrates' court, e.g. common assault, battery, criminal damage, etc. Offences triable either way are triable either in the Crown Court on indictment or summarily in a magistrates' court, e.g. theft, burglary, assault causing actual or grievous bodily harm, etc. Indictable offences are the ones which are triable only on indictment in the Crown Court, e.g. murder, manslaughter, rape, etc.(Card & Molloy, 2016).

[3] For the latest statistics on type and volume of crimes received and processed through the criminal system from January to March 2018 in England and Wales, see https://www.gov.uk/government/statistics/criminal-court-statistics-annual-january-to-march-2018

[4] I will be discussing these studies in more detail while reviewing the relevant literature in the next chapter.

of laughter by suspect and officer(s) during the interview (Carter, 2011). They are tremendously significant to understand some of the distinctive aspects of interaction in legal settings, but they rarely address topics which are relevant for legal theory or socio-legal studies[5] and hardly engage with any sort of literature from these fields. A more flexible and interdisciplinary approach – hence more similar to my own research's methodological approach - has been taken by scholars such as Komter and Johnson, in their research about eliciting confessions (Komter, 2003) and transforming lay narratives into legal material (Johnson, 2008), respectively.

The originality of my thesis is connected to my academic background. As a student in a law school, I noticed that all the modules and courses on legal institutions, e.g. police, judiciary, representative parliaments, etc. were taught without any reference to empirical research. The lectures were based on the study of the legislation and the legal doctrine which presented how these institutions should work, i.e. normative approach, rather than on descriptions of what actually takes place in these settings, i.e. the empirical study of law-in-action. Instead of studying legal concepts and institutions in abstract, I gradually became more concerned with understanding how these institutions operate and how these legal concepts are interactionally constructed and mobilised in the professional routines of these institutions. In other words, even though I remained interested in legally relevant phenomena – i.e. judicial decision-making, police questioning, criminal defences, etc. - I started to conduct research on these topics by borrowing methodological tools and insights from the social sciences, particularly from sociology. In this research, I have attempted to combine my previous experience as a law graduate student with my interest in particular methodological approaches from social sciences, especially conversation analysis (henceforth CA) and ethnomethodology[6] (henceforth EM).

Thus, unlike the vast majority of studies in police interviews and interrogations, my research is focused not so much on social interaction *per se*, but on the production of legally informed material through social interaction. For example, when questioning a suspect about his/her involvement in an incident, police officers are surely oriented to the legal requirements that should be met by the sorts of material they have to put together in order to prepare a case which might end up in court. In other words, their questioning is oriented to fulfil certain legal criteria, e.g. *actus reus*, *mens rea* and causation, which are sufficient to decide 1) whether to

[5] An exception is a study on intentionality-in-action by Edwards (2008).
[6] I will give an overview of these research approaches in the following two chapters.

charge the suspect or not, and 2) which offence the suspect will be charged with. Furthermore, when questioned by officers about an event, suspects offer stories and lay narratives which will then acquire some sort of legal imprint by virtue of police officers' interventions. This is not to say that the interactional organisation of police questioning is irrelevant to socio-legal studies. I am certainly interested in the interactional features of police interviews, i.e. how police officers question suspects and how suspects respond to those questions. However, given my legal training, my research is an attempt to integrate my interest in how legal concepts seem to inform and are embedded in police interviews, with the concern among scholars in CA and related fields in questioning routines and strategies which constitute these interactions. In other words, it is not just the fact that if the question is asked in a particular way, it might have a particular interactional effect; the distinctiveness of my research is that I analyse my data from an angle which also takes into account the fact that the interactants in that setting orient their actions to legal concepts regarding criminal liability and to a typology of crimes, i.e. murder, manslaughter, common assault, criminal damage, etc.

In doing their work, police officers have to answer the question: does this event meet the standard of being considered an offence? Shouting at someone is not necessarily an offence. People shout at each other over and over without any sort of legal consequences. What then makes that shouting an offence? Moreover, one needs to ask: what are the general legal criteria that need to be met in order for a police officer to charge and the Crown Prosecution Service (CPS) to prosecute someone?

As I write this introduction, an interesting legal case came to sight in the media[7]. The case involved a 19-year-old teenager who had armed himself with a bottle containing a corrosive substance in order to threaten another man and steal his bike. Realising the danger he was in, the intended victim of the bicycle theft/attack reacted by knocking the open bottle from the teenager's grasp and kicking it, sending a spray of acid over a very unfortunate woman who was sitting on a bench opposite to where the two males were having their scuffle. The victim went to a hospital where she was treated and released, having suffered burns in her face, arms, upper body and lower legs. However, she unfortunately died 11 days later after having contracted septicemia caused by the acid burns. The defendant was initially charged with murder but pleaded guilty to an alternative charge of manslaughter during his trial in the Crown Court, alleging he did not intend to kill or cause any harm to the victim. He was, in fact, using

[7] For more information about the case, see https://www.theguardian.com/uk-news/2018/jul/31/teenager-jailed-for-17-years-over-fatal-acid-attack

the acid bottle as a threat to try and get the other man's bike, not to attack anyone. What I am pointing to here is how this event came to be regarded as a manslaughter rather than a murder - the key point being that the evidence presented by the prosecution did not meet the criteria of *mens rea*, i.e. that the defendant intended to unlawfully cause either death or serious injury. Although the death of this woman was an outcome of his holding acid in his hand, he claimed that he never had any intent of throwing it over the victim – a claim which informed the case brought against him and with which the jury agreed.

The relevance of this case is that it shows that the way in which an event is *characterised* in court depends on whether or not that characterisation meets certain legal criteria such as *mens rea*, for example. It shows how important these legal concepts are for the construction of a case and indeed for a conviction. But when does this characterisation occur?

Although we may be inclined to think that this characterization work only occurs in the later stages of a criminal process, i.e. during the judicial phases, in fact, it begins in the police investigation, primarily during the interview with a suspect. Police officers, in their questioning, are then seeking to establish whether a particular event meets the criteria necessary to be considered a criminal offence, and if so what type of offence. When they question somebody, they are not simply asking questions about an event in a disembodied or disinterested way. They are instead asking questions with a view to whether and how they can put a legally cogent case together, and they do that particularly by their orientation to legal concepts and the work of (re) characterising an event in terms of its legal relevancy.

In this sense, my research begins from the assumption that these social interactions are driven by the orientation to the legal criteria for establishing whether a criminal offence has been committed and if so, which type of offence. Hence, the originality of this thesis comes from the fact that this is the first conversation analytic study of police questioning in England that is focused specifically on the underlying orientation followed by police officers – and by suspects to some extent – throughout these interactions. Other studies have considered this orientation in later stages of the criminal justice process, particularly in courtroom examinations (Dupret, 2011), but the matter is often marginalised by both interactional and socio-legal research on police questioning.

My research focuses principally on three particular aspects of police-suspect social interactions:

- How is police questioning oriented to some key legal concepts, e.g. *actus reus*, *mens rea* and causation, that underpin the decision about whether the event investigated was indeed a criminal offence?

- How are suspects' narratives or accounts co-constructed, i.e. negotiated, evaluated and transformed, in order to gain legal relevance – especially in terms of the legal concepts aforementioned?
- What are the linguistic resources and the sense-making practices used by police officers to transform lay narratives or accounts into legal informed material?

In order to address these questions, the thesis is organised as follows. I begin chapter 2 by presenting a brief conceptualisation regarding the core elements of criminal liability, i.e. *actus reus*, causation and *mens rea*, as they are the concepts to which police officers orient while questioning suspects. I show then that there is a gap concerning empirical studies about these concepts in action. I proceed then to review the relevant literature on social activities in legal settings, giving particular attention to the research on police questioning – i.e. police interviews and interrogations. The studies can be divided into themes according to their main focus: a) organisation of talk and actions in legal settings; b) confessions and construction of versions; c) police officers' activities; d) suspects' activities; and e) power and authority. In addition to reviewing the existing literature, in this chapter, I situate my thesis in relation to that literature and briefly describe the innovative aspects of my work regarding the themes above.

In chapter 3, I describe and explain the methods I used for collecting and analysing the empirical evidence which underpins my research. In the first part of the chapter, I explain how I managed to get access to a data corpus[8] comprising audio-recorded interviews between police officers and arrested suspects, and highlight some of the details of that data. These interviews took place at police stations in the Midlands region of the United Kingdom and were recorded as part of a routine procedure for potential use in court. I also provide a brief overview of the data, showing the main features of each interview, including details concerning the crime for which the suspect had been arrested, the evidence presented by police officers throughout the interaction and the defence utilised by the suspect to deny, excuse or justify the allegations being made. In the second section, I present the methodological approaches which guided me throughout my research, summarising some of their key concepts and explaining how they have influenced the way I selected and analysed my data extracts. I have drawn upon conversation analysis and ethnomethodology as these approaches allowed me to examine the

[8] As I will explain in further detail in the methodology chapter, the data is part of a larger corpus originally collected by Elizabeth Stokoe and Derek Edwards.

social actions, activities and practices, i.e. ethnomethods, through which the orientation to legal criteria is mobilised by police officers – and by suspects to a lesser extent.

The following four chapters represent the core of the thesis, as they report the results of my empirical research. In chapter 4, I note that there is a stereotype about police questioning, that officers interrogate suspects in order to obtain a confession. Despite being accurate in relation to some criminal justice systems (Komter, 2003; Watson, 1990), the stereotype does not apply to the current system in England possibly due to a series of legislative changes, particularly the implementation of the PACE Act 1984 and the development of a national programme for interviewing known as the PEACE model (Griffiths & Milne, 2006). I show that due to the interviewing model adopted by the police in England, officers' agenda is not to explicitly look for a confession when questioning suspected criminals (Dixon, 2010). Nonetheless, they are still able to elicit information which may undermine the suspects' version of events. In the chapter, I focus on showing some features of police questioning in England and I do that by describing and analysing episodes in which lines of questioning are constructed by police officers. It is organised in two sections: in the first one, I describe how questions in police investigative interviews have a progressive character, i.e. they gradually move from what appears to be an innocent, innocuous or neutral issue to a point at which the police officer reveals – or at least makes more visible to the suspect and therefore for the analyst - what his/her project really is. In the second section I connect the progressivity of these questions to what seems to be a key project in most of these lines of questioning, that is, police officers are oriented to elicit information from the suspect and build some sort of inconsistency between the evidence they have already collected and what has been stated by the suspect in the interview.

In chapter 5, I focus on an interactional practice through which the police officers' orientation to legal criteria becomes rather visible, namely formulations (Garfinkel & Sacks, 1970; Heritage & Watson, 1979). I begin the chapter by discussing previous work on the use of formulations as a practice in talk-in-interaction in several different institutional settings, such as news interviews (Heritage, 1985), psychotherapy (Antaki, Barnes, & Leudar, 2005; Davis, 1986), industrial negotiations (Walker, 1995), radio call-in programmes (Hutchby, 1996) and medical consultations (Ostermann & da Silva, 2009). I show that although formulations constitute a generic practice in talk-in-interaction, their use is adjustable or adaptable according to the action or activity the participants are performing; in other words, formulations are able to do multiple interactional work – participants manage different activities - in different settings, and their formats or design differs according to the setting and

activities for which they are being used (Drew, 2003). When used by police officers, formulations are employed in order to highlight the most essential parts of the answers provided by the suspects. Given the fact that these answers are quite often built in a narrative format and are quite lengthy, formulations operate by condensing that account and selecting only what the police officers consider relevant for their institutional enterprise and getting that recycled information on the record. In the chapter, I demonstrate that: 1) self-attributed formulations, i.e. a speaker (re)formulates what he/she had previously said, often occur in a particular interactional environment and operate as a device to elude protective and defensive moves performed by the suspects and to pursue an allegation or to develop a specific version of events for a potential prosecution; 2) other-attributed formulations, i.e. a speaker (re)formulates what the other interactant had said, are employed to transform the suspects' lay narratives and accounts into legal material (Johnson, 2008), to convey the sense that what has been said is coming from the suspect's mouth, to highlight admissions and denials, and to put these admissions and denials on record. Formulations are employed as a mechanism to rework prior descriptions/utterances by transforming and elaborating them and highlighting their legal relevance, especially in terms of causation and intentionality.

From chapter 6 onwards, my focus moves from police officers' questions to how suspects respond to these questions. As part of a larger investigation process, interviewing a suspect involves not only obtaining an account from him/her about what happened, but also putting to him/her the evidence previously gathered in order to evaluate, challenge and negotiate that account. Similar to that, the suspect, by providing an account about what happened is not only describing the incident, but also defending himself from allegations which are likely to appear throughout the interview. Thus, defensive practices and accounting practices (Scott & Lyman, 1968) are essential phenomena for understanding law-in-action. In chapter 6, I discuss a particular defensive strategy employed by suspects: portraying an event as [having arisen from] an accident (Austin, 1979). In order to do so, I describe the ways in which suspects can account for having done something accidentally, without using the word 'accident' or its variables, which leaves the inferences to be made by the police officers. I show then, the main dimensions and analytical properties that underlie the understandability of these accounts as being appeals to an accident, which are: a) building a plausible and trivial context in which the untoward incident occurred (Kidwell, 2009; Sacks, 1984b); b) selecting a particular description to specify the untoward action; c) using impersonal or agentless constructions (Pomerantz, 1978); d) displaying the harmless nature of the objects which are connected to the incident.

The focus of chapter 7 is also on a particular defensive strategy. According to the UK's College of Policing (CoP), there is a professional framework governing the conduct of investigative interviews by police about crimes or possible offences. This framework requires different questioning protocols according to whether police are interviewing a suspect, or a witness or victim. The aim of these protocols is, for instance, to provide support for victims during their interviews, support that is not to be extended to suspects. In theory, therefore, the police conduct different types of interview according to the category of the interviewee (i.e. whether a suspect, witness, or victim). The CoP's guidelines are premised on these categories being fixed or static, so that police officers will conduct their questioning according to whether they are interviewing a suspect or a victim; the interviewing officer(s) is expected to know whether they are interviewing a suspect or a victim, and conduct their questioning accordingly. However, in actual police interviews held in police stations, matters appear not to be so clear-cut; in practice, whether an individual caught up in a possible crime is regarded as a suspect, or a victim, may become ambiguous – an emergent identity rather than one settled a priori, before an interview. In the chapter, I show that when faced by specific allegations, suspects may choose to defend themselves by building a *counter-denunciation* blaming the putative victim for the incident under investigation. The suspect attempts to make the putative victim at least partially responsible for the incident, transforming him/herself into the victim and the other into the perpetrator. Thus, the categories of 'suspect' and 'victim' can undergo some modification or even be turned around, as interviews progress; far from being rigid and mutually exclusive, it may become evident – and evident to the police interviewers – that which of those being questioned is the victim and which the aggressor/transgressor (suspect) is less clear, or hangs in the balance. The outcome, if there is one, depends on the accounts that each provides, on the descriptions and narratives each constructs, and the police assessment of the accountable evidence. A few studies have documented something like the *counter-denunciations* occurring in my data. However, most studies are based on experiments and surveys and are focuses on sexual violence (Grubb & Turner, 2012; Henning & Holdford, 2006), but none has examined how this defensive technique is constructed and employed moment-by-moment, turn-by-turn, interactionally. In this chapter, I identify and discuss five of the principal analytical properties associated with counter-denunciations: a) the temporal character of the narrative in which this defence occurs; b) the relation between ordinariness and 'innocence'; c) the use of a backstory, i.e. a history of incidents preceding the one under investigation, to recontextualise the incident; d) descriptions of actions and conducts; and e) the attribution of motives.

In the final concluding chapter 8, I summarise and discuss the findings of the thesis insofar as they could contribute to the existing literature, especially in socio-legal studies and institutional conversation analysis. I also highlight the limitations of my work and, based on these, suggest possible directions for future interdisciplinary research not only in police questioning but also in other stages of the criminal justice process.

To summarise, I shall recap the main features which underpin my research. This thesis is about police interviews with suspects in England. The cases I examine here are not the eye-catching or dramatic ones that are often presented in the media or studied in academia. In fact, they are all relatively mundane cases and represent the bread-and-butter of police work, which is precisely one the relevant aspects of studying them. I draw upon conversation analysis and ethnomethodology to produce a fine-grained analysis of audio-recorded officer-suspect interactions in police stations. My analysis takes into account legal concepts and notions which inform not only the nature but also the direction of the questioning and the criteria for building a case. In the following chapters, my aim is to reveal how this legal work is produced through a series of social practices, actions and activities performed by participants in this setting. In doing so, I suggest that law as a social phenomenon is neither only produced in courtrooms nor in dramatic or 'serious' cases.

Chapter 2
Literature review: legal concepts and practices in legal settings

2.1 Introduction

In this chapter I will present the relevant literature on practices in legal settings, paying special attention to the studies of police interviews and interrogations. The reason for including some wider references based on data collected from different legal settings such as criminal courts (Drew, 1992), juvenile courts (Emerson, 1969) and traffic courts (Pollner, 1979), for example, is that police investigative interviews are not isolated events, they are part of a larger legal process. That means that the police officers are oriented to fulfil some legal requirements, i.e., that their practices should meet certain standard guidelines to gather evidence[9] and their questions should touch upon legal concepts such as causation, *actus reus*, *mens rea*, and so on; in order to build a case.

The chapter is organised into two sections: 1) legal concepts and 2) legal practices. In the first, I will present a brief conceptualisation of three main elements related to criminal liability: *actus reus*, causation and *mens rea*. I selected them due to their importance in guiding the topic management in police investigative interviews. At the end of the section, I will show that there is a gap in studies of these concepts in action. In the second section, I will review the relevant literature about practices in legal settings, focusing particularly on the work done from interactional approaches in police interviews and interrogations. By legal practices I mean the actions and activities performed by all the participants involved in the institutional work in legal settings, including not only professionals, e.g. lawyers, judges, magistrates, police officers; but also lay people, e.g. defendants, suspects, witnesses, etc.

2.2 Legal concepts

Before turning to the literature on practices in legal settings, I should provide an overview of the main legal concepts that orient the work of police officers when questioning suspects: *actus reus*, causation and *mens rea*. These concepts encompass the main elements of criminal liability, which is also comprised by the absence of a defence.

[9] As Haworth noted, police interviews are "not only a means of evidence gathering, but also becomes a piece of evidence in itself submitted to the court at trial." (Haworth, 2006, p. 741)

To convict a person of the crime he/she is being charged, one needs to prove not only he/she has done the acts which had actual consequences, but also that he/she acted with the *mens rea* required for that crime.

Although police interviews with suspects are meant to be investigative and not accusatory, and the work carried out by police is of a different nature of the one performed by the Crown Prosecution Service (CPS), it will become clear from the analysis in the subsequent chapters that all the participants involved in these interviews orient their actions – even if in different degrees – to legal concepts regarding criminal liability.

Actus reus

Actus reus (Latin for 'wrongful act') is the first of the elements of criminal liability in the English legal system. In broad terms, *actus reus* is the notion of a guilty act and it covers in definitional terms the conduct or behaviour of the suspect - during the police investigation phase - or the accused - as soon as the judicial phase begins. It can be an act of commission, that is, when someone has done something, or an act of omission, that is, when the person has not done something (Padfield, 2010)

By commission, one means that the person has done something that the law establishes as a criminal offence. A person who damages or destroys a property belonging to someone else has possibly committed the crime of criminal damage[10]. There are some occasions, though, that the *actus reus* can be achieved by not doing something that the law requires. In these cases, the *actus reus* is completed by omission[11].

Actus reus also includes the idea of a state of affairs or circumstances surrounding the commission of the alleged crime. When investigating the *actus reus*, one should also look at the result or the consequence of the acts (causation[12]). That means that the suspect should have caused the result by doing what he/she did (Padfield, 2010)

[10] The definition of criminal damage is set out in S.1(1) Criminal Damage Act 1971: "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence." (Legislation.gov.uk, 2017)

[11] In order to justify criminal liability by omission, one should prove that the person was under a duty to act. These duties often emerge in different ways: a) someone who creates a risky scenario may be under a duty to act to eliminate that risk; b) some duties emerge from a special relationship such as parent-child or doctor-patient; c) failing to fulfill certain duties that have been created by statutes (Padfield, 2010)

[12] Due to its fundamental character for criminal liability and its prevalence in the questions posed by the police officer during investigative interviews with suspects in England, I will dedicate a sub-section in this chapter to conceptualise causation in more detail.

Another essential feature of *actus reus* is that the act that caused damage or harm needs to be voluntary. By a voluntary act, one means that the person must have chosen to do what he/she has done. So, for instance, if a diabetic person drives very erratically in a hypoglycemic state and there is sufficient evidence that he/she did not know what he/she was doing, a judge can dismiss a charge of driving without due care and attention on the grounds of automatism[13]. No one is liable for acts performed is a state of automatism, that is, in a state over which the person had no control[14].

Regarding the concept of causation, *actus reus* requires that the harm must be caused by the conduct, even though the conduct does not necessarily need to be the direct cause. The conduct also does not need to be the unique or the effective cause of the crime provided it cannot be dismissed as trivial (Ashworth & Horder, 2013).

In terms of omissions, generally in English Law, there is no obligation on anyone to prevent harm or wrongdoing, i.e. legal duty to act. In simple terms, it means that if A is walking past a river and spots B apparently drowning, A has no legal obligation to rescue B. However, there are some cases in which there is a duty, and which failing to carry out that duty will then generate liability to the person. A simple example would be if, in the scenario above, B was son of A; in that case, A would have the duty to look after B, and then A (parent) would become liable for failing to save B (son). Also, if a person does an act which creates or contributes to a situation of danger, this person becomes legally responsible – under legal duty to act – for taking the appropriate steps to counteract the danger before it materialises (Card & Molloy, 2016, p. 47). Recently, a woman in England has been jailed for four years after entering a suicide pact with a man, before backing out and leaving him to die alone. She was found guilty after the prosecution claimed that she failed to alert police officers to the danger the man was in, after having contributed to creating that danger[15].

There are two places in which *actus reus* can be found: in the statutory definition or in the common law definition. An example of statutory definition is criminal damage[16], whereas assault would be an example of a crime of which the definition and its constituent elements are constructed by case law[17]. The elements that comprise the *actus reus* of criminal damage are: a) destroying or damaging; b) property; c) belonging to another person. For assault, the elements are as follows: a) the victim must apprehend; b) immediate; c) unlawful; d) personal

[13] See Broome v Perkins (1986)
[14] See Hill v Baxter (1968)
[15] https://www.bbc.co.uk/news/uk-england-cambridgeshire-42744930
[16] See note 2 for a statutory definition of criminal damage.
[17] For a definition of assault, see Fagan v MPC (1969).

violence. If for each of the cases above all these elements are present, then *actus reus* is established.

Causation

Causation is another fundamental concept in the English legal system and constitutes one of the elements of *actus reus*. Its relevance resides in the fact that criminal liability depends on displaying that a specific action or series of actions has caused a specific harm to another. In other words, by looking at causation, as the name suggests, one aims to answer the question of whether the suspect/defendant caused the outcome of the incident. In general terms, causation in criminal law in England is divided into *factual causation* and *legal causation* (Card & Molloy, 2016, p. 56), for which there is a test to prove each of them.

Once in court, the prosecution will first need to prove that there is a factual causal link between the defendant's conduct and the outcome. In order to do that, one should apply what jurists call the *'but for'* test[18], which consists of asking: but for the defendant's actions, would the outcome (or result) have occurred? If yes, the outcome would have happened anyway, and the defendant is not criminally liable. If no, the actions were the cause of the outcome, so the defendant is liable. Therefore, there is a "chain of causation" which connects the consequence of the event to the event itself, with the event being the endpoint in the causal regression (Hart & Honoré, 1985).

For most cases, in which there are no further complicating factors, *factual causation* is sufficient to establish causation. However, under particular circumstances, the prosecution will need to prove that there is *legal causation*. One should prove that the defendant's actions were the operative and substantial cause of the result; in other words, that these actions were the main (not the only) cause of the result.

Causes, however, should not be mistaken for conditions. The distinction between these two terms can be partially explained through the fact that causal explanations do not consist in searching for a cause of a normal consequence in a normal sequence of events but in asking why the consequence happened when normally it would not, in other words, a breach of normality that calls for an account (Hart & Honoré, 1985).

[18] The test has been established in R v White (1910). In this case, the defendant added poison in his mother's milk with the intention of killing her. After taking a few sips, the mother went to sleep and never woke up again. Medical reports revealed that the poison had nothing to do with her death as she had died from a heart attack. The defendant was then not liable for the murder as his act of poisoning the milk was not the cause of death. He was liable for attempted murder, though.

According to Hart and Honoré (1985), the "chain of causation" can be broken by the intervention of external or abnormal elements which alters the responsibility to the suspects/defendants such as excuses, justifications or mitigating circumstances. Case law in England has established that breaking the "chain of causation" is achievable through the victim's own act, an act of a third party, or an act of God.

Mens rea

Mens rea is the second constitutive element of criminal liability in the English legal system. In a very broad sense, *mens rea* means 'guilty mind' (Ashworth & Horder, 2013). The question one needs to ask is whether the person meant to do what actually happened. *Mens rea* can be the distinctive component of certain crimes, for instance, grievous bodily harm. The difference between sections 18[19] and 20[20] of the Offences against the Person Act 1861 is the requirement of specific intent for the first one.

Even though *means rea* is often mistaken for motive, it is critical to make a distinction between these two terms. Motive denotes a reason, in other terms, why the person did what he/she did; whereas *mens rea* means that the person had the guilty mind or that he/she meant to do what he/she did[21].

Mens rea is divided into three main levels or forms, namely: intention, recklessness and criminal negligence. Intention can be split up into direct and indirect (or oblique). Direct intent is the most culpable and occurs where the person embarks on a course of conduct to bring about a result which in fact happens; the conduct achieves the intended result. Indirect intent exists in cases in which the person embarks on a course of conduct to bring about an intended result, knowing that the consequence of his actions will also achieve another result (Ashworth & Horder, 2013).

[19] S.18 Offences against the Person act reads: "Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily harm to any person, ... with intent, ... to do some ... grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable ... to be kept in penal servitude for life ...". (Ashworth & Horder, 2013)

[20] S.20 Offences against the Person Act reads: "Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour, and being convicted thereof shall be liable ... to be kept in penal servitude ...". (Ashworth & Horder, 2013)

[21] For more about the distinction between motive, reason and intention, see Sharrock and Watson (1984) and Winch (2008).

The third level or form of *mens rea* is called recklessness. The difference between recklessness and the other two levels cited above is that there is less blame attached to recklessness than to direct and indirect intent. In English Law, being reckless refers to the taking of a risk which cannot be justified, or in other words, the person knows there is a risk involved in the action but goes ahead and takes it anyway. Recklessness is divided into subjective and objective. Whereas the latter refers to what the reasonable man thinks about a situation, what everyone looking at a particular scenario would think about it; the former refers to what the individual thinks about the situation. Subjective recklessness is applied to all the non-fatal offences in England and Wales and refers to the conscious taking of an unjustified risk (Duff, 1990). In order to decide whether the person acted recklessly or not, one would have to attempt to establish what the defendant was thinking at the time of the wrongful act. It is not whether people in general or *the man on the Clapham omnibus*[22] reckons the conduct was reckless, but whether the suspect or defendant thinks that his/her actions were reckless[23]. Finally, it is also important to check if the action was taken deliberately.

Understanding the definitions of intention and recklessness is fundamental to comprehend the difference between basic and specific intent criminal offences. Crimes of specific intent are the ones in which intention, either direct or indirect, is the only form of *mens rea* that is required (e.g. murder, theft, burglary robbery, etc.). By contrast, crimes involving basic intent are the ones in which not only intention is an acceptable form of *mens rea*, but also recklessness (e.g. involuntary manslaughter, assault, battery, etc.). This distinction is crucial since the availability of a particular defence very often depends on whether the criminal offence being investigated is one of basic or specific intent (Duff, 1990).

Legal concepts in action

In the previous sub-sections, I have briefly overviewed some of the legal concepts that orient the interactions between police officers, suspects and lawyers in investigative interviews. The conceptualisation presented above reflects the predominant view of jurisprudence about these concepts, i.e. a view which considers only the doctrine in law books and marginalises empirical data. In this section, I will turn my attention to the literature that attempts to explicate how these concepts are socially constructed and mobilised by participants in legal settings.

[22] The term used by courts in England to refer to the average ordinary person. For a critical review on the idea of 'reasonable person', see Baron (2011) and Gardner (2015).
[23] See R v Cunningham (1957).

A great deal of research on legal concepts has been done in legal philosophy and jurisprudence but there is a gap regarding the contextualised examination of their use in practice. The approach taken by legal theorists and jurists fails to go beyond the level of hypothetical examples or formalised case-law texts, which obscures the interactional process through which these concepts are shaped, mobilised and applied in legal settings (Dupret, 2011).

The relationship between '*law in books'* – e.g. statutes, cases, codes, etc. - and '*law in action*' – practices that occur in legal settings - has been a central concern in sociology of law and jurisprudence for a long time, and according to most of these socio-legal scholars, there would be a 'gap' between the two – a gap that is also seen as related to the dichotomy involving 'theory and 'practice' (Travers & Manzo, 1997).

Dupret (2011) attempts to bridge that gap by observing and describing the practices in public prosecutors' offices and courts of justice in Egypt. Although he stresses the limitations of studying law only through its legal provisions, - an approach that would neglect the complex path through which a narrative gains legal relevance - he points out that both legal professionals and laypersons orient their actions to some legal categories which are established in those laws, statutes and cases. Dupret (2011, p. 179) then demonstrates, in an empirically documented and detailed way, how facts are transformed into legally relevant objects and how they are interpreted taking into account and oriented by legal concepts such as legal personality, criminal liability and criminal intent – what he called "*the practical grammar of legal concepts*".

The production of legally informed material has also been observed in a different stage of the criminal process. Examining a corpus of police interviews with suspects in the UK, Johnson (2008) shows how lay narratives are converted into institutional and evidential discourse. She emphasizes the negotiation whereby the suspect's story and its narrative material are reshaped, evaluated and transformed into something legally relevant in terms of concepts such as responsibility and participation.

Also on police investigative interviews, *mens rea* – or intentionality - is another legal concept that has been studied in its fine detail. Edwards (2008) examines how police officers and suspects deploy and manage their notions of intent in the description of the actions and what these formulations accomplish, i.e. their interactional consequences. Comparing data from ordinary conversation and police interviews with suspects in the UK, he concluded that in contrast to mundane conversations, intentionality of criminal actions in police interviews emerges as an explicit and overt concern, as an integral part of establishing intent regarding an

already admitted action's effects, relevantly to legal requirements of criminal evidence for establishing the offence.

These studies have confirmed that by being produced within an institutional context, talk in legal settings is informed by its orientation to achieve goals and accomplish tasks – it has an agenda. It shows also that interactions in police and judicial settings are subject to some specific context-constraints (Drew & Heritage, 1992).

Finally, as these authors have shown, ethnomethodology (EM) and conversation analysis (CA) might offer a unique contribution to sociology of law and socio-legal studies regarding the relationship between '*law in books*' and '*law in action*' as these approaches are grounded on a fine-detailed analysis of how the members themselves produce and make sense of their activities, – in that case, activities which are accomplished within legal settings such as courtrooms and police stations.

2.3 Legal practices

Legal practices have been subject of special interest since EM and CA were developed. Indeed, it was doing his seminal work on jury deliberations that Harold Garfinkel coined the term 'ethnomethodology' in order to characterize the study of the methods jurors use to decide legal cases (Garfinkel, 1967). Besides, Harvey Sacks, one of the founding fathers of CA, has been trained in law as an undergraduate in Yale and has shown interest in legal activities in his early work (Sacks, 1972, 1997)

During the following decades, a considerable number of ethnomethodological and conversation analytic studies have been produced on legal practices and legal institutions, especially in courtrooms (Atkinson & Drew, 1979; Drew, 1992; Dupret, 2011; Galatolo, 2015; Galatolo & Drew, 2006; Geraldo, 2015; Lynch, 1997). However, due to the difficulty of accessing audio and video recordings from legal hearings – particularly criminal ones-, most of these studies were based only on written notes produced either by the researcher or the court personnel.

The criminal process in England starts with an investigation conducted by the police, including interviews with suspects and witnesses, in which police officers aim to get an account of what happened at the potential crime scene. Before going to court then, a case must pass through the hands of police staff. For certain categories of offences, it is up to the officer to decide whether the suspect will be charged or not, but in other cases, officers need to refer to the Crown Prosecution Service (CPS) for them to review the evidence. Based on that

recommendation, the custody officer will choose whether to charge the suspect or not. In a nutshell, police discretion is applied in cases of crimes dealt by the Magistrates Court, whereas for the crimes dealt by the Crown Court, the case needs to be referred to the CPS[24].

Since the mid-1980s, when new legislation known as the Police and Criminal Evidence Act (PACE) was passed, all police interviews with suspects conducted in the United Kingdom must be audio or video-recorded, which produces material that can be used in court as legal evidence (Carter, 2011; Dixon, 2010). Surprisingly, although there is an extensive literature about police interviews and interrogations, only a small fraction of it is based on data from England.

In the next sub-section, I will review the main literature on legal practices, focusing particularly on the work done on police interviews and interrogations from an interactional point of view. I have divided the literature into main themes considering their main focus: 1) organisation of talk and actions in legal settings; 2) confessions and construction of versions; 3) police officers' activities; 4) suspects' activities, and 5) power and authority. At the end of each sub-section, I shall situate my thesis in relation to the literature presented and describe the innovative aspect of my work regarding each of the themes. The following configuration is then an attempt to organise the relevant literature on legal practices in a way in which it would be possible to compare and relate studies that use different sorts of data, methodologies and approaches.

The organisation of talk and actions in legal settings

When looking at proceedings in legal settings, either in police investigative interviews or criminal hearings, what strikes us from the outset is the pervasiveness of talk-in-interaction within them. A substantial part of the work carried out by police officers, lawyers, prosecutors, judges, etc. is done through communicating with someone else. Nevertheless, the sociology of law and socio-legal studies had largely neglected the study of police and courtroom procedures until the late 1970's. As Atkinson & Drew (1979) identified, these academic fields were more concerned with what occurred in the backstage of these settings or what happened beyond appearances. By then, sociologists of law and socio-legal scholars were trying to explicate what

[24] According to the College of Policing: "In a criminal case, if there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge, a decision to charge is made. Depending on the type and seriousness of the offence committed, this decision is made by the police service or the Crown Prosecution Service." (College of Policing, 2017).

courts and police do to defendants and suspects, respectively, rather than detailing how their work was performed.

The strategy adopted by the authors consisted of investigating the *organizational features of courtroom verbal exchanges* by comparing them with those of ordinary conversation (Sacks, Schegloff, & Jefferson, 1974). They showed that despite having some features in common, the organisation of ordinary conversation and verbal exchange in courtrooms differ in at least two key aspects: a) questions and answers are the only types of speaker turns (question-answer sequences); b) these turns are preallocated (Atkinson & Drew, 1979, pp. 61–62). By building their work as a comparison against the features of ordinary conversation, they were able to specify institutional constraints in the legal setting such as the limitations on the sequential actions that specific parties are allowed, i.e. counsel ask questions and witness answer them. However, as they also pointed out, this turn typification is only minimal; other actions such as accusing and defending, are done in the format of questions and answers, respectively.

The pioneering idea of studying the *sequential organisation* of interaction in legal settings has been followed by Maynard (1982, 1984), whose work in plea bargaining in misdemeanour cases in the US identified the existence of a bargaining sequence by which one party presents a position and the other responds to that. These sequences are then the environment where various features of plea bargaining are produced, such as 'exchange', compromise', 'disagreement', etc. In sum, he demonstrates that these features of plea bargaining, rather than being an outcome of external influences (e.g. asymmetry of power between the state and the accused) are products of the sequential organisation of talk in these interactions.

A similar approach has been taken to investigate police interrogations in the US (David, Rawls, & Trainum, 2017). The authors also focus on the sequential organisation of the talk, which becomes clear as they describe the transition moves from the pre-interrogation phase into the interrogation phase (David et al., 2017, p. 8).

Besides having built a platform for studies of CA in legal settings, the relevance of Atkinson & Drew goes far beyond as it began bridging the gap between legal theory and sociology of law. The authors claimed that their book has more in common with H.L.A. Hart's approach to legal philosophy than with most of sociology of law. For them, the understanding of language use would be inevitable for studying *social order* and *social action*. Language use is a topic and a resource in understanding court proceedings (Atkinson & Drew, 1979). What distinguishes their work from others who also looked at language in legal settings at that time

(Danet, 1980; O'Barr, 1982) was their praxeological approach to talk, i.e. conversation is not just talking; as we talk, we are doing things that are the primary forms of social action (Drew, 2005).

As Atkinson & Drew (1979) have displayed, examining the sequential organisation of talk in a specific setting is essential to understand the actions and practices carried out by lawyers (Drew, 1978; Edwards & Stokoe, 2011; Matoesian, 2001; Sacks, 1997), judges (Lynch, 1997), police officers (David et al., 2017) suspects (Stokoe, 2010; Stokoe, Edwards, & Edwards, 2016) and witnesses (Drew, 1992; Galatolo & Drew, 2006) in the events in which they participate.

Among the multitude of social actions performed in legal settings, *accusations* have been particularly scrutinised (Atkinson & Drew, 1979; Drew, 1978; Kidwell & González Martínez, 2010). For example, Drew (1978) has focused on the management of accusations in cross-examinations. According to him, whilst asking questions to a witness, a lawyer can be heard as drawing attention to reports about the events being investigated and drawing inferences from the descriptions within these reports. He points out that based on these inferences the lawyer can be understood as accusing the witnesses, even though he subtly accomplishes that by inserting particular descriptions in their questions.

As a part of a sequence, these questions will need then to be answered (question-answer sequences) by the witnesses. As the witnesses recognise the accusatory nature of those enquiries, i.e. questions which lead to blame allocation; they display their defensiveness. In other words, due to the sequential organisation of talk in that setting, witnesses anticipate the production of their accounts in order to provide reasons for their alleged defective actions, and thereby attempt to account for the reasonableness of their conduct (Atkinson & Drew, 1979).

Whilst work has been done on the sequential aspects of courtroom talk and police interrogations in the US, there is a gap concerning the interactional organisation of police investigative interviews in England. By adopting a procedural approach and describing the overall organisational features of talk in that context, one can more precisely grasp the sorts of actions which are performed by police officers, lawyers and suspects in this particular institutional setting.

Confessions, admissions and construction of versions

Confession is one of the possible outcomes of a police interview. The discussion about this topic is multi-faceted; it varies according to the area where it has been studied and the

approach that has been chosen to analyse the data. In social-legal studies, for example, Feld (2006) has analysed quantitative and qualitative data - interrogation tapes and transcripts, police reports, juvenile court filings, and probation and sentencing reports – from police interrogations of juveniles in the US. He has addressed some main policy issues, including the matter of using false evidence to elicit confessions.

From a forensic psychology perspective, Leo (1996, 2009) was concerned about the causes and consequences of those false confessions and the effects they have in the subsequent stages of the US criminal process. According to Gudjonsson (2003), those false confessions lead to some problematic outputs, including miscarriages of justice. His forensic psychology study shows, for example, how far the British police recognize the impact of oppressive interviewing practices on false and misleading confessions.

The main problem of these studies is the fact that they are based on the assumption that there is an 'objective reality' out there. The main job of the criminal justice system (including the police) would be to find the truth and determine 'what really happened". However, as it has been proposed, justice is neither a mechanical nor an objective process (Bennett & Feldman, 1981). Once in court, defendants and victims are not going to describe the facts, but their versions of what happened. How then will judges and jurors arrive at a verdict? How is justice produced by ordinary people? Examining a series of criminal trials in a Superior Court in the US, Bennett and Feldman reported that stories not only played a big role on those proceedings, but trials were in fact organised around storytelling devices (Bennett & Feldman, 1981, p. 3). According to them, people in a trial present, organise and analyse the evidence brought into court by using common techniques of telling and interpreting stories.

The techniques (or devices) to build versions of what happened is the focus of a study by Drew (1992), in which he showed that the ones produced in courtroom cross-examination are alternative and competing (see also Danet, 1980). Based on a rape trial in the US, he identified the devices through which the witness and the attorney produce 'contrasting versions' of the same event. He demonstrated that the contrastive character of the witness's version did not derive from a direct rejection or contradiction. In fact, the witness's version gains its implicit contrastive character through a combination of i) its sequential placement, ii) it being qualified versions, and iii) its "maximal" property"[25].

[25] "(…) the witness challenges the descriptive adequacy of the attorney's characterization by selecting an alternative candidate version which is informative about the "most that can be said" concerning some locally occasioned, contextually bound essential feature of the scene." (Drew, 1992, p. 501)

The prominent role of constructing narratives and stories also appears as a relevant topic for those studying police interviews. In fact, this topic pervades almost every single study about that setting, although it seems to be essential for just a few of them, especially those from language and communication (Carter, 2011; Heydon, 2005; Johnson, 2008; Komter, 2003; van Charldorp, 2014).

van Charldorp's (2014) paper is particularly important as it is the only one that has not only mentioned but also developed in fine detail the idea of co-construction[26] of police interrogations. Having observed and recorded a series of interrogations in the Netherlands, she concluded that officers construct and reconstruct stories for which they seek details concerning people involved, time and location. Also, she pointed out that co-construction in police interrogations is based on previous institutional knowledge, as well as institutional demands.

Mixing tools from sociolinguistics, discourse analysis and CA, Johnson (2008) describes police interviews as a setting where narratives or stories are negotiated by police officers and suspects in order to convert them into legally relevant material - evidence. She has identified then four different types of negotiating activities: over the suitability of the story for potential audiences; over responsibility for the incident; evaluation for evidentiality and; over participation and role.

All these studies indicate the importance of activities such as *constructing versions/narratives* and *storytelling* within legal settings either in a criminal courtroom or a police department. On the one hand, Bennett & Feldman (1981) are more concerned with the interpretive operations jurors and judges perform in order to make a decision. Looking at a series of criminal cases and emphasizing, they have constructed a cognitive theory of story construction and social judgment. That theory is particularly interesting as it identifies different means by which people draw inferences around what they called 'story's central action'. On the other hand, Drew (1992), Johnson (2008) and van Charldorp (2014) focus on the processes through which participants negotiate or co-construct those versions, stories and narratives, putting more emphasis in the joint character of the entire range of activities involved in two different stages of the criminal process. Yet, what brings them together and differentiates them from the literature on socio-legal studies and forensic psychology is their view of how reality is socially constructed. By relying on the assumption of the existence of an 'objective reality', the literature on social-legal studies and forensic psychology focuses only on the validity of

[26] *Co-construction* is a notion that seems to be inextricably linked to the very idea of conversation analysis and its roots, and it should be understood as 'the joint creation of a form, interpretation, stance, action, activity, identity, institution, skill ideology, emotion, or other culturally meaningful reality' (Jacoby & Ochs, 1995).

confessions and its effects on the criminal justice system, e.g. miscarriages of justice, without touching upon the process through which these activities are achieved.

How are these confessions elicited? What are the devices employed by police officers to prompt a suspect to disclose prejudicial information? From a sociolinguistic point of view, Shuy (1998) describes the deceptive language used by police officers to elicit a confession from a suspect. Yet the approach chosen by Shuy exemplifies one of the fundamental problems of language-oriented research: in contrast to what CA proposes, Shuy does not take into account the social actions and activities that are built through interaction and which are responsible for producing these confessions.

This issue is solved for instance by Komter (2003) whose single-case analysis shows how a police interrogator in the Netherlands persuades the suspect to change her story and gets her to confess the crime of theft. For her, talk in interrogations is treated as a piece of evidence by the police officer, who progressively selects and scrutinises its coherence and consistency. Also focused on these practices performed by police officers, but using a series of police interviews in the UK, Carter (2011) examines how knowledge-claims and minimisations are used by officers to elicit information that had previously been withheld by the suspect in the interview. Drawing upon Watson (1990), she shows that whilst interviewing a suspect, police officers will organise their turns with reference to these knowledge-claims to present these descriptions as something they 'know', rather than 'suspect' or 'believe', increasing the level of 'facticity'. Besides minimisations and knowledge-claims, another practice for gathering information and getting the suspect to confess is building rapport (David et al., 2017).

The fact that there is a substantial amount of work done on confessions clearly indicates how significant the topic seems to be. Excluding a couple of studies in CA, the rest of the literature has two shortcomings: 1) they are founded on the idea of an 'objective reality'; 2) they are evaluative and corrective. In this sense, the contribution of my thesis is that my approach here is non-evaluative and starts from the assumption that there is no objective reality; in other words, police interviews are a setting in which versions of the same event will be presented, tested and challenged, and it is certainly not up to the researcher to decide which version is true and which is false.

Police officers' activities

Eliciting a confession is not the only activity performed by police officers when they question a suspect. In fact, at least theoretically, the importance of confession is downplayed

when one is referring to police investigative interviews and not police interrogations. In conceptual terms, what distinguishes these two events is the range of actions, practices and activities which are done throughout these legal proceedings.

About that distinction, Dixon (2010) has made a comparison between the methods used in police interrogations in the US, that are performed in order to get a confession, and the ones used in police investigative interviews in England and Wales. According to him, an interrogation is performed through accusatory techniques of questioning, in order to obtain a confession from the suspect. Interviews, however, are conducted to get the suspect's account and then check its reliability by questioning and testing it against different evidence (Dixon, 2010, pp. 427-429).

Nevertheless, Dixon does not approach the topic as in the same level of detail as the analysis by Kidwell & González Martínez (2010), who compare the interactional organization of 'soft accusation' with 'story solicitation'. They try to show how the former type of interrogation solves some problems that are endogenous to the latter. For example, since that method situates the interrogator as having only limited access to the event, the suspect is able to build on a story that shows him in an advantageous way. Using conversational analytic tools, Kidwell and Gonzalez Martinez are interested in the activities that prepare subjects to accept the presuppositions embedded in the accusatory question.

Actions and activities performed by the police officers within police interview rooms have also been studied by Stokoe (2009b). In that paper, she describes when, how and for what interactional purpose police officers manage self-disclosures in the UK. Essentially, she has concluded that some of these practices are built as a full turn response within suspect's narrative telling, in an affiliative mode, provisionally suspending the 'officer' and 'suspect' identities; whereas others are constructed as a second-pair part response to questions, in order to block attempts by suspects to suspend the routine pattern in the police interrogation's sequential order.

Also focused on the practices carried out by police officers in interrogations, there is a conversation analytic study by Cerovic (2010), in which she analyses some of the various questioning techniques used by detectives in Montenegro for example, to challenge or repair particular answers provided by the suspects. She emphasizes that questions are designed to perform other actions such as blaming, accusing, defending; thus the police officers use these questions as vehicles to complete some tasks during the interrogation (see also Atkinson & Drew, 1979). On that matter, she shows how a police officer might accomplish actions such as asking for information or asking for confirmation by using the various forms of 'do you know'

interrogatives, highlighting the relative constraining force associated with each grammatical form of questioning.

In addition to questioning a suspect, the most basic activity done in that setting, police officers have other tasks while performing an interrogation or an investigative interview. For instance, there is an extensive literature on recording an interview and writing a report. Whereas in socio-legal studies researchers are more concerned about the possible implications that audio-visual recording of interviews might have (Dixon, 2006; Feld, 2006), forensic psychologists seems more interested in using experimental data to evaluate the credibility and quality of police interrogation's written records (de Keijser, Malsch, Kranendonk, & de Gruijter, 2012)

Although the researches above are relevant insofar as they begin to investigate these two vital activities, the main body of studies on that particular topic comes from discourse analysis and CA. Using the latter approach, Carter (2011), for example, analyses the effects of the recording in the general structure of the interview. According to her, the recording appears as a 'silent participant' in the interview as the participants orient themselves to future audiences in the interaction, e.g. jurors, supervisory officers, judges. A similar phenomenon is described by Stokoe (2009), who examines the sequential organization and the action performed by police officers when they use the phrase 'for the benefit of the tape' or its shorter variance 'for the tape'. Using audio-recorded data, she demonstrated how these actions are designed for different audiences, in different forms. Whilst for potential future audiences, it is used in order to clarify indexical terms such as 'it', 'that' and 'there', for those who are present in the setting it serves to account for the formulation of information they already know. A general point made by the two previous authors is that police work, including police interviews, are part of the criminal process, therefore are conducted taking into account future legal settings and audiences.

These two previous papers are based on data from the UK, where since the mid-1980s, all police interviews must be audio or video recorded (Carter, 2011; Dixon, 2010), generating material which can be used in court as legal evidence. In countries where there is no mandatory audio or video recording of these interviews, the source of legal evidence will be an official record which is written up by police officers, as happens in the Netherlands or Sweden, for example.

That process of transforming spoken discourse (police interrogation) into a written report (suspect's statement) has been examined by a few researchers, particularly from the Netherlands and Sweden. In order to do so, Komter (2006, 2013) and van Charldorp (2011,

2013, 2014) have gained permission to observe and record multiple police interrogations and compare those to the written record done by the police officer throughout the interrogation.

Komter (2006) has analysed the sequential organization of the talk and the typing, focusing on the overlap. She has noticed the text of the police record is a monologue, apparently uttered by the suspect. There is no consideration of the interactional process by which it was constructed, as the interrogator's activities are absent in the text. She concluded then that: "the interrogation is conducted as a resource for drawing up the record, and the record-thus-far is used as a resource for organising the interrogation." (Komter, 2006, p. 223) She added that "The talk is for the typing, the typing is for the record, and the text of the record informs the talk. Thus, talk, typing and text are contingent responses to the ongoing activities, reflexively tied to the conditions of their production." (Komter, 2006, p. 223).

Drawing upon these findings, van Charldorp (2011, 2013) examined the coordination of talk and typing in police interrogations. According to her, the physical activity of typing has an influence on two other concomitant activities: interrogating and producing a record. According to her, typing not only limits the talk but also structures the talk and can be strategically used to arrange what will be written in the police record.

Finally, there is also the discourse-analytic work done by Jonsson & Linell, (1991), in which they have discussed the process through which stories are generated in police interrogations in Sweden and then written as an official report. Their analysis shows that the dialogical story gains a more clearly elaborated structure and a legally relevant feature when it is transformed into a monological written report by a police officer.

It is clear then that most of the literature on police interrogation – including the studies in conversation analysis - pays more attention to the actions and activities done by police officers, overlooking, for example, the role of the lawyers within that setting. The access to legal advice has been guaranteed by the Police and Criminal Evidence Act in the UK since 1984 (PACE 1984) but Edwards & Stokoe (2011) are the only ones who have looked closely at what lawyers do during police interrogations. Examining a data set from the British police, they have identified the following patterns of actions: responding to questions from clients; advising clients not to answer police questions; repairing officers' questions - to seek clarification or make a legal point; and helping clients to give evidence. In so doing, Edwards and Stokoe were able to identify the interactional 'moments' when these actions are performed and their consequences.

Suspects' activities

In the previous section, I have presented the relevant literature on some of the activities performed by police officers while interrogating or interviewing a suspect. Similar to what happens in courtrooms, police interrogations and interviews are also comprised of question-answer sequences. As such, by looking at them, it is possible to visualise and describe the actions, practices and activities carried out by suspects throughout these interactions. The key question is how the suspects respond to questions?

Using CA and its sequential focus, Cerovic (2010), for example, showed that although there is a tendency for police officers to ask questions and for suspects to respond them, an organizational constraint related to that particular setting, there are some instances in which suspects will use rhetorical questions as a defensive device. Basically, they use these questions in order to challenge officers' prior damaging turns or to indicate the inappropriateness or inappositeness of the officer's accusations or imputations.

Watson (1997) was concerned about the methods offenders use to describe their victims in murder interrogations in the US, making their motives available and trying to blame their victims for the crime. He concludes that as these methods are used by members of society, e.g. lawyers, police and jurors, for recognising a 'victim' and an 'offender', membership categorisation allows us to understand the moral basis of society.

Stokoe (2010) goes further and examines not only how suspects depict types of men who do, and do not, assault women, but also the location and the design of, and the responses to, suspects' denials on accusations of assaulting women. She claims that it is possible to apply both sequential and membership category analyses together by showing how the same categories – such as those that are gender-based – appear in the same sorts of phrases and in the same action-oriented situations. Her conclusion is that suspects practice a 'category-based denial', accomplishing the social action of denying by making reference to their identity membership. These ideas are particularly useful for studying how moral categories and actions are linked, and whether it is possible to bridge the gap between sequential and membership category analyses within conversation analysis (Stokoe, 2012; Watson, 1997a, 2015).

The several references mentioned in the previous sections suggest that scholarship has been more attentive to the examination of police officers' practices while leaving the investigation of suspects' activities as a sideshow. In other words, the literature reviewed indicates the existence of a gap regarding the study of defensive strategies employed by suspects whilst being interviewed by police officers in England.

Power and authority

The relation between power and law has been a central debate within social sciences for a long time. Weber was particularly concerned with the evolution of legal codes as an example of the disenchantment of the world and rationalisation of social life (Banakar & Travers, 2013) Indeed, legal authority is one of the ideal types formulated by Weber (1958) in his classification of legitimation strategies, i.e., legal rules are one of the sources used by the ruler to justify his right to rule. Marx, on the other hand, was interested in drawing attention to the subtle and pervasive characters of "Rule of Law" as an ideology which serves to mask the structures of class domination (Collins, 1982).

Although relevant and clearly pioneering for their period, the work done by the 'founding fathers' of sociology had a downside as they were abstractly dense and empirically thin. They simply did not display how power and authority were used or produced in legal settings. An alternative to making the understanding of the topic more empirically-grounded arose as soon as language became a noticeable feature and then a prominent topic to comprehend law and society. For some researchers, one should look at language of law in order to capture the power of law as it is through language that power is realised, exercised and challenged (Conley & O'Barr, 1998).

In accordance with this recommendation, Heydon (2005), for example, presented a critical analysis of police interviewing in Australia, combining tools from sociolinguists, critical discourse analysis and CA. Her main points are about the relationship between police power and institutionality, and the impact of police institutional discourse on the interview process. Also, Harris (1984) investigated the ways in which questions are used to control the interactions in the magistrates' courts in the UK. For her, power and authority in courtrooms are exercised by those who are in control of asking questions, which in this case are the magistrates. Rather than merely obtaining information from defendants and witnesses, by posing questions magistrates are also able to create constraints and define how the interaction will proceed.

One of the problems with Harris's approach in the paper above is its assumption that the participant being questioned would not have any control over the course of the interaction. As Sacks (1992) had previously noticed, one is given partial control of the conversation by being in the position of asking the questions. Even in very formal settings such as courtrooms and police interviews, there are several forms of resisting to or challenging questions as attempts to mitigate the questioner's control over the interaction. For example, in an attempt to

revise her previous position, Harris (1989) identified three different discourse strategies which defendants employ as modes of resistance in magistrates' courts, namely: a) counter-questions; b) interruptions; c) appeals to certain pre-conditions.

Resistance is visible not only in courtroom data but also as shown by Haworth (2006) in police interviews with suspects in the UK. Her analysis revealed that the dynamics of power and control in a particular interview had four fundamental features, which are: a) topical agenda; b) question type, that is, the function of each question; c) the question-answer sequence, and d) references to institutional status. Although she agreed that power and control can always be resisted or challenged through the use of discursive practices, she ingeniously pointed out that, at least in the context of police investigative interviews, it might not be the best strategy. Taking into consideration the larger legal context in which police interviews are embedded, it might be more advantageous for police officers if they let the suspects take discursive control over the interaction.

All the above-mentioned studies on power, authority and control in legal settings share a point of view in which these categories exist *a priori*, and language should be inspected for its expression of them (Dingwall, 2002). Although all of them have used the CA toolbox, it has been done marginally and in combination with approaches that may be considered incongruent, or even incompatible, such as critical discourse analysis. Doing so, they assume that power, authority and control are potential significant factors that could and should be identified through the close detailed analysis of naturally occurring data; in other words, they use CA to grasp phenomena that are exogenous to the setting and to its members, instead of understanding what is happening as a local and endogenous production.

One could argue that the discussion about power and authority in CA is respecified into the debate on epistemics – the knowledge members bring to and share through interaction (Heritage, 2012; Heritage & Raymond, 2005). Based on police-citizen interactional data, Kidwell (2009) analyses the presuppositions and epistemic features of the question 'what happened?' at-the-crime-scene – a question that is also often present in police interviews – and the consequences of these issues for the business of police questioning. Instead of considering power and knowledge *a priori*, she examines in detail how participants' differential access to the event poses constraints as well as opportunities for action by police and ordinary citizens. Influenced by an ethnomethodological CA, Kidwell shows thus that questioning is far from being a neutral activity, as although the police officer was not in the crime scene, he will try to evaluate – by gauging and challenging the plausibility of the story - the response using what

he already knows (e.g., information provided by the call taker, testimony of other witnesses, physical evidence, etc.).

2.4 Conclusion

I began this chapter by providing a short overview of some of the main legal concepts which will orient the actions of professional and lay participants in interactions in judicial and police settings. These concepts are *actus reus*, causation and *mens rea*, and they form a practical vocabulary which will subtly guide the conduct of police officers while questioning suspects. I have shown that these legal concepts are rarely investigated in their use in practice, either in courtrooms or in police stations.

I have also highlighted some of the key themes in the social sciences literature which focused on practices in judicial and police settings, dedicating special attention in reviewing the research conducted in police interrogations and interviews from an interactional perspective (particularly CA). I have divided the literature into themes as follows: 1) organisation of talk and actions in legal settings; 2) confessions, admissions and construction of versions; 3) police officers' activities; 4) suspects' activities; 5) power and authority. In addition to reviewing the existing literature, in this chapter, I have situated my thesis in relation to that literature and briefly described the innovative aspects of my work regarding the themes above.

Chapter 3
Data and Methodology

3.1 Introduction

In the previous chapter, I considered the relevant literature on practices in legal settings and discussed its major lacunae, particularly the lack of research which examines interactions in police interviews from a socio-legal perspective, that is, one that considers how participants construct and are guided by legal concepts such as intentionality, culpability, evidence, and so on. In that review, I began giving glimpses of what would be my data and methodology. I will now discuss those in more detail. In the first section of this chapter, I will describe the access I had to a data corpus of audio recordings on which my research is based. I will also give a brief overview of the data, showing the main features of each interview. In the second section, I will present the ethnomethodological conversation analytic perspective that guided my research. I will summarise some of the key concepts of conversation analysis and explain how they have influenced the way I selected and analysed my data.

3.2 Data summary

In my research, I draw upon a sample of 27 investigative interviews with suspects[27], recorded in audio as part of a standard police procedure for potential use in court. These interviews were taken from a larger corpus (n=122) collected by Elizabeth Stokoe and Derek Edwards in the course of a project on identities in neighbour disputes (ESRC grant number RES-148-25-0010 "Identities in neighbor discourse: community, conflict and exclusion"). All the tapes had been transcribed to the basic typist level as part of the original project. The sample was based on criteria for exclusion and inclusion as follows: a) any tape which involved an interpreter was excluded; b) any tape in which the sound quality was poor was excluded; c) tapes were selected to cover a wide range of offences; d) preference was given to lengthy interviews, although a few shorter ones were also selected to cover multiple types of offences. All cases were taken to court and were finished by the time they were collected. Permission to use the data in new research was granted by a Midlands police force in England. As part of the ethics required by the police, all data were kept in a secure store (locked and encrypted) and

[27] Three of these interviews are comprised of more than one tape, as I show in Table 1 below.

the extracts to which I refer in my analysis have been completely anonymised and treated as entirely confidential. Regarding the transcripts, anonymisation consisted of substituting pseudonyms in place of participants' real names. Other recognisable features such as addresses have also been changed as a result of the police ethics requirements.

The vast majority of the interviews are from cases regarding some sort of dispute between adult neighbours, although a few of them involve juvenile suspects. I have not excluded any of these interviews as the analytic perspective adopted here makes it unnecessary to differentiate police interviews in terms of the crimes being investigated or the age of the accused person. I recognise the existence of differences in terms of the rules and guidelines governing investigative interviews with adults and juvenile, respectively, but following a conversation analytic approach (see next sections), these differences enter my analysis only when the participants themselves orient their actions to them.

The tables below summarise some of the main aspects of the interviews and enabled me to obtain an overall picture of my data:

Table 1: Details of each interview

TAPE	DURATION (min)	ALLEGED CRIME[28]	DEFENCE	LAWYER	ACCOMPANIED BY	EVIDENCE PRESENTED
2	14:28	criminal damage	admission + unintentional ('lost my temper')	Y	mother	prosecution witness' statement
3	36:15	assault	self-defence: accident + other-initiated + anger (admission at the end)	N	mother	victim's statement + injuries sustained (photographs, medical report) + testimony from people at school
5	16:08	criminal damage	denial + discredit victim's character and actions + no comment	Y	N/A	police officer's statement
12a 12b	4:06 41:52	abusive and threatening words and behaviour	blaming the victim (bigger picture)	Y	N/A	victim's statement + first-hand knowledge (police officer is the victim in the second part of the charge) + police officer's statement
13	37:48	abusive and threatening words and behaviour	blaming the victim (bigger picture)	Y	N/A	victim's statement + first-hand knowledge (police officer is the victim in the second part of the charge) + police officer's statement

[28] I am adopting here the categories employed by the police questioners themselves during the interviews. In most of the cases, these categories will coincide with the common law or statutory terminology. An exception is in tape 23, in which the police officer refers to the incident as "an altercation", which is not a legal term. Later in the interview, it is revealed that the neighbour had accused her of damaging his door with a hammer.

18	7:50	theft	denial (another person stole the bike)	Y	N/A	witness statement (the person who has been accused by the suspect)
19	42:39	criminal damage	admission + other-initiated incident (victim's partner)	N	N/A	multiple witnesses' statements + first-hand knowledge (police officer has seen the damaged door)
21	11:25	breaching bail conditions	denial (suggests the witness have mistaken him by his brother)	Y	N/A	a couple of witnesses' statements
22	12:25	criminal damage + threats to kill neighbours	other-initiated event + protecting his daughters	N	N/A	first account interview, which means that police had not interviewed the victims/witnesses
23	22:45	"altercation with neighbour" (assault + criminal damage)	other initiated event + self-defence (protect her and her daughter) + counter-denunciation ("counter allegation")	Y	N/A	(there is no evidence explicitly presented – the questions asked by the police are to challenge the suspect's version that the damage was not intentional – throw + hit
24	11:22	criminal damage	retaliation (a neighbour had broken his window by throwing something at it)	Y	N/A	statements (including a case of harassment occurred months earlier)
25	9:26	unknown[29]	denial + story was made up by a police officer (brother of his ex-girlfriend)	Y	N/A	police officer's statement who attested he had seen the suspect driving his car + picture

[29] From listening to the tape, I was unable to identify the criminal offence for which the suspect had been arrested. Apparently, an off-duty police officer had seen the suspect driving his own car, which suggests he had some sort of prohibition against him – perhaps a bail condition.

26	14:23	(noise) harassment to neighbours	the allegation is malicious; counter attack to a previous assault allegation by the suspect against the victim + actions are a response to the neighbour's behaviour + 'no comment'	Y	N/A	victim's statement + statements from other neighbours
27	22:05	neighbour harassment (ex-girlfriend)	admitted having gone to the flat + denies having done it for any specific (malicious) reasons	Y	N/A	victim's statement
29	10:32	criminal damage	admission + anger (had being called 'paedophile')	Y	N/A	first-hand knowledge about the consequences of the incident (door damaged)
32	8:38	breach of the peace + criminal damage	"no comment"	Y	N/A	police officer's statement + witnesses' statements (neighbours)
42	9:59	break anti-social behaviour order	admits having talked to the woman but the denied the content of the conversation	Y	N/A	victim's statement
45	8:10	threats to kill + attempting criminal damage	"no comment"	Y	N/A	nothing is mentioned although by what has been stated by the police officer in his questions, he had statements from witnesses

53	29:02	abusive and threatening words towards the neighbours	admission + neighbours winded him up	Y	AA service[30]	victims' statements (husband and wife)
54	20:17	threats to commit criminal damage (next door neighbour's car)	denial + complaint about the alleged victim	Y	mother	victims' statements (husband and wife)
59	19:08	criminal damage + possession of an offensive weapon	denial + complaint about the alleged victim (changes to admission after a few minutes)	N	N/A	victim's statement
60 61	42:26 18:14	assault	self-defence	Y	AA service	victims' statements (husband and wife)
64a	41:46	indecent exposure	admission + accidental (not intentional)	N	N/A	material evidence (binoculars which were allegedly used by the suspect)
80	12:17	assault + criminal damage	self-defence + not intentional	N	N/A	no evidence presented
100	33:36	assault	self-defence	Y	N/A	victim's and witnesses' statements + photos of the victim's injuries
114a 114b 114c	42:40 42:27 31:56	multiple racially aggravated harassments	admission + provocation (anger) denial (a particular accusation about calling a neighbour a 'black bastard'	Y	N/A	victims' statements + several other witnesses' statements
122	17:22	assault + criminal damage by fire (arson)	admission + admission (but without intention)	Y	Youth Offending Team	witness's statement

[30] The presence of an appropriate adult is required for juvenile and 'mentally disordered or mentally vulnerable' suspects (see PACE Code C, 11.15)

Table 2: Totals and data overview

Number of interviews	27
Gender (male/female)	22 males; 5 females
Age (adult/juvenile)	24 adults (2 mentally vulnerable); 3 juveniles
Accompanied by a legal representative	
Yes	21
No	6
The total length of interviews	693:27 minutes
Average interview length	25:40 minutes
Longest interview	117:03 minutes
Shortest interview	7:50 minutes
Range	99:13 minutes
Number of interviews per offence[31]	
Criminal damage (including arson)	13
Assault	6
Threatening/abusive behaviour	3
Harassment	3
Threats to kill	1
Indecent exposure	1
Possession of an offensive weapon	1
Breaking anti-social behaviour order[32]	1
Breach of peace	1
Theft	1
Breaching bail conditions	1

As one can see from the table, the interviews are concerned with a range of crimes, most of them summary offences such as criminal damage, threatening behaviour, assault, etc. These interviews averaged around 25:40 minutes, the shortest and longest ones lasting 7:50

[31] Some of the interviews were concerned with more than a single offence, hence the sum here being higher than twenty-seven (total number of interviews).

[32] Anti-social behaviour was not technically a criminal offence, although it was dealt with in criminal courts in England and Wales. Until 2014, that sort of 'sub-criminal behaviour' was tackled by anti-social behaviour orders, when they were replaced by 'civil injunctions', Community Protection Notice and Criminal Behaviour Order. See https://www.gov.uk/civil-injunctions-criminal-behaviour-orders

minutes and 117:03 minutes, respectively. Criminal damage is the most frequent offence[33] (thirteen cases[34]), followed by assault (six cases) and use of abusive and threatening words (three cases). Although suspects have a right to be accompanied by a legal representative[35] while being questioned in police interviews, solicitors were not present in six (22.2%) of these cases. Regarding the type of defence offered by the suspects, there are six denials (22.2%) and two 'no-comment' interviews (7.5%); in all the other cases (70.3%), suspects admitted (at least partially) having done what they were being accused of but offered justifications and/or excuses in order to rebut, mitigate or transfer criminal responsibility.

Although the aforementioned interviews comprise the core data of my thesis, I have also conducted ethnographic observations in a police station in a large city in the Midlands area in England. These were made in October and November 2015, when I was invited by a police inspector to visit the station and talk to several police officers who were responsible for conducting most of the station's investigative interviews at the time. During these visits, I was able to see, for example, the interview rooms and the recording equipment used by the police to capture those interactions. Furthermore, I could talk to police officers about issues such as their professional training – particularly regarding interviewing suspects -, their recollections of memorable interviews, their pre-interview work, the role of these interviews in the criminal process, and so on. In regard to their work after the interview is completed, I was informed that officers have to complete a form called MG5 (appendix B) which includes a summary of the interview. This form is also provided to the defence (alongside an electronic copy of the interview) as part of the disclosure process. The summary of the interview on the MG5 is normally accepted by the defence and is all that is usually needed at summary trials. If the matter is to be heard at Crown Court, an MG15 Record of Taped Interview (ROTI, appendix C) is produced. This document is typed by audio typists and then proofread and corrected by the interviewing officer. Again, a copy is provided to the defence as part of the pretrial disclosure. None of this paperwork has to be reviewed by and signed by the suspect. However, once it is disclosed it may be challenged by the suspect or their defence.

The use of the ethnographic material allows me to describe the setting and explicate unfamiliar terms, phrases and courses of action, e.g. technical jargon and professional working protocols (Maynard, 2006). In short, such ethnographic material informed my analysis of the

[33] In some of the interviews, suspects have been investigated for multiple offences; therefore the sum of all offences is bigger than the total number of interviews.
[34] I am including here a case in which the suspect has been arrested on suspicion of committing arson, a qualified type of criminal damage, as in the Criminal Damage Act 1971 S1(2), (3).
[35] See Police and Criminal Evidence Act 1984 s.58(1).

police interviews. However, I am fully aware of the spatial and temporal limitations created by the fact that my ethnographic work and the audio recordings were not done in the same police force or in the same period.

3.3 Conversation Analysis

In this section, I will present the key elements of conversation analysis and discuss how some of these have guided me throughout different stages of my research. I will start by describing conversation analysis and its naturalistic mentality. Then, I will explain the particularities of CA transcriptions and why they are so detailed. Following that, I will discuss how one carries out data analysis and the relevance of building collections. Finally, I will present the key concepts of CA and discuss the distinctiveness of doing institutional CA.

Conversation Analysis as a Naturalistic Approach

Conversation Analysis involves the study of recorded naturally occurring talk-in-interaction (Drew & Heritage, 1992). This means that the materials analysed occurred or would have occurred in the ordinary course of an organisation's daily activities and events, i.e. for some reason other than as a product of the research. The relevance of audio or video recordings in CA comes from the fact that this approach insists on the study of naturally occurring activities as they are conducted in a variety of social settings (Sidnell & Stivers, 2013). The legislation which establishes that police investigative interviews with suspects in England must be audio or video recorded creates a perfect environment for conducting CA research. These recorded interactions are natural in the sense that they are produced in the course of an institutional standard work procedure; they were not made specifically for my or any other research; therefore, one can investigate what actually happens in that setting without interference with the organisation's ordinary activities.

The naturalistic approach to audio or video recorded data diverges from other forms of collecting data in socio-legal research, such as interviews and field notes. It differs from interviews, which consist of post hoc explanations for and reconstructions of actions in the form of accounts provided as responses to questions in a very specific and constrained environment (Sidnell & Stivers, 2013). Thus, interviewing police officers and suspected criminals would not allow one to understand which activities are performed within the setting and how they are managed through talk-in-interaction. Put another way, CA conceives of

interviews as a topic of inquiry rather than as a resource for collecting data and information (Zimmerman & Pollner, 1970). CA's methodology also differs from field notes, a product of ethnographic observations, in which the data consists of contemporaneously noted recollections. Atkinson and Drew (1979) argue that in ethnography there is a substantial distance between the events observed in a particular setting and the audience who approaches the reported data. The audience would be able to access only a selective and incomplete description provided by the researcher, either if it is in the field notes or in the journal article itself. According to them, the use of naturally occurring recorded data solves an intrinsic problem of ethnography and its reliance on field notes:

> (…) once the situational production, selection and recognition of a particular description by participants becomes a focus for the analysis, the relative 'completeness' of a description according to some purportedly decontextualised criteria ceases to be a matter of concern on which the analyst must take a stand. (…) And, given that an analysis starts from the assumption that there will always be alternative ways of describing the data, the researcher does not have to claim, either explicitly or implicitly, that some particular reading is the correct or only one (…) (Atkinson & Drew, 1979, p. 28).

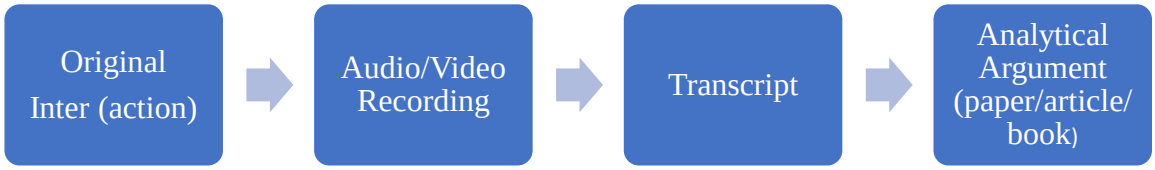
In other words, CA's preference for using transcripts and recordings of interactions would be the answer for the problem above as it provides the audience - whoever is reading the academic output, - equal access to all the data. Relying on audio or video recorded interaction or transcripts is not only a practical way of obtaining detailed data but also a mechanism to mitigate the problem of the 'invisibility' of common sense procedures (ten Have, 2002).

Socio-legal studies and sociology of law have traditionally investigated legal institutions in a variety of ways: questionnaires, semi-structured interviews, ethnographic observations, etc. Through these methods, researchers have tried "to get inside of the "black box" of social institutions to gain access to their interior processes and practices" (Drew & Heritage, 1992, p. 5). In contrast to these studies, my research aims to investigate these institutional activities by analysing audio recordings of a particular type of legal interaction, that is, police investigative interviews with suspects. Rather than working on reports of events – e.g. interview data or field notes – my research enables me to consider the details of social practices and activities in a more direct fashion.

Conversation analysis transcripts: why so much detail?

In the previous section, I explained why in CA, analysts give preference to working with audio or video recordings of naturally occurring interactions. I will now move on to discuss the next stage, that is, the process of transcribing data.

Figure 1: The process of transforming/formulating data[36]



The figure above shows the inevitable process of transformation which pervades science in general and CA in particular. It shows the asymmetrical properties of action-account pairs. The point about recording the original interaction and transcribing it afterwards is to produce a non-perishable, transportable and manageable representation (or formulations, to use an ethnomethodological concept) of aspects of social life (ten Have, 2002). The process through which the original interaction becomes a recording, which is then transformed into a written transcript and finally changed into an analytical argument is inevitably reductionist. One cannot pretend that CA transcriptions, as finely detailed as they may be, are not simplified and idealised representations of the social world. The function of these transcriptions is to compensate for the limited success of descriptions (e.g. field notes) in showing the details of interaction. Whereas other sociological descriptive tools (e.g. coding) offer glosses of the social life, CA transcriptions can be seen as a scientific enterprise designed to make available materials which are closer to the 'raw data' (ten Have, 2002).

As I explained in section 3.2, my data were originally collected as part of a larger project a few years ago, when standard orthographic transcriptions of each interview were produced. As much as these transcripts have facilitated my work since I did not have to start transcribing my audio recordings from scratch, they would not enable me to inspect the data in as much detail and accuracy as CA researchers require. Hence, I have further transcribed several extracts according to the Jefferson's system for CA, including all the ones presented in this thesis.

[36] The figure is based on ideas presented by ten Have (2002) in a paper in which he reflects about the process of transcribing in social sciences in general and CA in particular.

However, the level of detail of CA transcriptions is often misinterpreted and criticised[37] by those who are not familiar with the methodology and its naturalistic mentality in approaching data.

The following extracts are from police interviews with alleged rape victims (Macleod, 2010):

#3.1

```
IR:   tt right okay then (1.0) e:rm so we'll start e:r (0.6) the
      interview at thirteen twenty eight hours(0.3) just make a note of
      that •hh and it's e:r Saturday the twenty second of September two
      thousand and seven. (1.0) tt •hhhh my name's PC (number) L*** W***
      from ((town name)) police.(0.6) o:kay (0.8)•hhh e:rm (0.9) and
      I've come to talk to you today or- I want you to talk to me today
      about erm..
```

#3.2

```
IE:   •shih (0.3) he bought me two drinks sat at the table (1) two big
      bottles of cider it was (3) u::m (2) •shih they were passing (.)
      e:rm cocaine between (.) him and G*** (.5) quite frequently going
      to the toilets with this small bag, (.) •shih (10) •shih (6)
IR:   when they were p- when you've said they were passing bags with him
      and G*** who's G***? (.) e:rm Ga***C*** his friend. (4) 'nd can
      you remember what happened after that?
```

#3.3

```
IR:   right. (1) I think I know which alley you're talking about cos I'm
      from the town so I- I know that alleyway it's like a cut through
      (1.6) it's quite- (.) well can you just describe exactly
      whereabouts in that alley you were (.7) as- as far as you can
      remember.=
IE:   =it was (.7) close to the top cos I remember the- I remember the
      bins. (.5)
IR:   right. (.5) okay (.8) is that (.3) the King's Head side or (.) to
      the other side? (.7) ((V gestures right)) to the back of the
      King's Head? the back of the King's Head.
```

[37] The main critique of CA transcripts suggests that conversation analysts are blinded by some sort of 'tape fetishism' as they follow a general cultural tendency to approach audio and video recordings just as photographs, as natural artifacts (Ashmore & Reed, 2000).

The transcription symbols[38] used in these extracts are common to conversation analytic research and were developed by Gail Jefferson. They help to capture how talk-in-interaction is temporally produced, which includes the sequencing of turns - e.g. gaps, pauses, overlaps and cut-offs - and features of speech delivery - e.g. stress, elongation, pitch and audible breaths (Clift, Drew, & Hutchby, 2009). But why so much detail?

One can see in each of the extracts above instances in which the police officer is about to say something but changes the course of his talk by sharply cutting off a word and completing his turn by saying something else. These instances are marked by a dash (-), which indicates these as being cut-offs. At first, paying attention to these cut-offs seems tedious and uninteresting. What would be their relevance? In fact, they are vitally relevant as they reveal an important and pervasive practice within talk-in-interaction: self-repair[39]. Self-repairs constitute a powerful linguistic device which provides the evidence that speakers orient to the normative feature of constructing social actions (Drew, Walker, & Ogden, 2013). In other words, by identifying the interactional moments in which police officers cut their words off and repair what they were about to say, one can see what is normative in their work of questioning a victim. In extract #3.1, the police officer (IR) changes from "I've come to talk to you today" to "I want you to talk to me today about", indicating that evidence should be given by the victim, not by the police officer. In extract #3.2, the police questioner was about to say 'when they were passing the bags', but then cut-off in the middle of the word 'passing' to remodel her turn by saying that the victim had said that 'they were passing the bags', which makes clear that the question is based on information provided by the victim. In extract #3.3, the police officer was describing the alley based on her personal knowledge ("it's like a cut through (1.6) it's quite-", lines 2-3) until she realised that the description of the place should be done by the victim ("well can you just describe", line 3). To summarise, in each of the extracts, the police officer questioning the victim seems oriented to following a recommendation in which he/she needs to display that the victim (interviewee) should retain principal authorship (Goffman, 1981) over the talk.

Since CA is concerned with how people manage and accomplish their actions while they talk, transcription is, essentially, an attempt to capture talk as it actually occurs, in all its apparent messiness. Hence, CA transcripts can often appear over-complex to those who are not familiar with the methodology (Hutchby & Wooffitt, 1998, p. 75).

[38] In the extracts above, only a few of these symbols were used. For a comprehensive transcription glossary, see appendix A.
[39] For a more detailed discussion on self-repair and its work to construct actions, see Drew et al. (2013) .

CA transcriptions are more complex and comprehensive than standard orthographic ones. Their level of detail varies considerably since after all, transcriptions are a selective process which reflects the analyst's practical goals and limitations, and his/her theoretical definitions (Ochs, 1979). For example, I mentioned above that prior to being given to me, my data (audio recordings) had to be anonymised due to an ethical agreement with the police. Apart from removing all people's names or any other features which could help identifying them (e.g. addresses), the anonymisation process consisted of changing the voice's pitch of each participant within the interview. These changes created a series of difficulties for me to employ some of the Jeffersonian symbols. Due to this limitation, I was not able to include prosodic details (e.g. intonation and pitch) in most of the extracts I produced.

Carrying out the analysis and building collections

Conversation analysis is generally presented as an inductive or bottom-up approach. Everything begins with observation: listening to the audio or video recordings and looking at the transcripts, if available (Sidnell & Stivers, 2013), as Sacks (1984a) emphasised:

> When we start out with a piece of data, the question of what we are going to end up with, what kind of findings it will give, should not be a consideration. We sit down with a piece of data, make a bunch of observations, and see where they will go (p. 27).

Contrary to what happens in other disciplines in social sciences, conversation analysis does not apply *a priori* theories or categories to data; results are generated through an "unmotivated examination of naturally occurring interactional materials" (Schegloff, 1996, p. 172).

As a result, my analysis was not only prompted by analytic goals or theoretical gaps in the literature[40], even though I took these matters into account when selecting my topics for investigation. In fact, after getting access to the audio-recordings and to their verbatim transcriptions, I started listening to and looking at them in order to identify potential

[40] Even though these gaps in the literature did not determine my initial investigation, I took them into account when choosing among the topics/phenomena I should write my chapters about. For example, when I first looked at my data, I noticed instances in which the tape recorder became interactionally visible. I also noticed a series of examples in which police officers were summarising and/or transforming what the suspects had previously said in the interview (formulations). Although both topics are endogenous phenomema, that is, relevant for the participants themselves, the literature on the latter one seemed scarcer. Hence, I wrote a chapter on 'formulations' and haven't written any about 'the role of the tape recorder'.

phenomena. This is not to say that I did not have any preconceived ideas about what happens within UK police investigative interviews. I knew that police officers would question suspects about their involvement in particular criminal offences and that suspects would answer to these questions in order to defend themselves from allegations. I knew also that questioning suspects in British police interviews was likely to be rather different, in appearance and practice, than for example interviewing suspects in Montenegrin police stations (Cerovic, 2010). Although I had also started reviewing the relevant literature, I did not know, for example, how those activities were accomplished, or which legal criteria would impact or orient the interactions.

After identifying one or two instances of a potential phenomenon, conversation analysts often begin to look for patterns. We do that in order "to investigate and identify the general social interactional practices and competences shared by members of a speech community, competences which enable them to interact meaningfully with one another, and which (largely) do not depend on their particular speaker identities." (Drew, 2014, p. 231). In other words, conversation analysis is fundamentally comparative, and one of the ways we have to make comparisons and identify systematic patterns or practices is through the process of building collections of instances of the same or similar phenomenon (e.g. a practice, a device, etc.). For example, to analyse 'formulations' (see Chapter 5), I first noticed that there were several instances in which police officers were employing the same practice, that is, the one of (re)formulating what himself or someone else had previously stated in the interaction. I selected a few instances of the phenomenon and examined them in terms of their differences and similarities (e.g. how they were designed; what they were doing; in what interactional environment they occurred). This is not to say that I followed exactly the same steps for investigating each of the topics in my thesis. In all fairness, there are no strict guidelines of how to do conversation analysis. I have applied a variety of interpretive skills when analysing my data, as CA data analysis rely as much on what Schenkein (1978) described as the "conversational analytic mentality" as on any strict rules of research methods.

Conversation analysis key concepts

In the previous sections, I have referred to conversation analysis as an analytical perspective/mentality or a methodology, rather than as a research method. Methods are just the techniques or the tools used to collect data, whereas methodology refers to how a researcher approaches that data (Travers, 2001). As such, CA is built around four main concepts: 1) social action; 2) turn design; 3) sequence organization and 4) intersubjectivity.

One of the main assumptions of CA is that language delivers action. It focuses on the actions and activities performed by participants and how these are interactional accomplished. As Drew (2005) pointed out:

> When people converse, they are not merely talking, not merely describing (their day, what happened, or whatever), not filling time or any of the other characterizations of conversation as a form of language idling. They do things in their turns at talk: They are constructing their turns to perform an action or to be part of the management of some activity. (p. 86)

As I pointed out in the previous chapter, there is a wide variety of social actions and activities performed in legal settings, including police investigative interviews with suspects, activities such as accusing, blaming, investigating, defending, imputing etc. In my thesis, I look not only at *what* police officers and suspects are doing but *how* they do it. For example, I have noticed that suspects often blame the putative victims as an attempt to transfer responsibility to them. Rather than stopping my analysis in that stage, I have gone further and identified the analytical features which are associated with that sort of defensive strategy.

Turn design, the second essential concept in CA, is closely connected with its praxeological mentality, that is, its concern about social action. It refers to how turns-in-interaction are designed to deliver these actions and involves: a) selecting which action that turn will perform out of several possible options; 2) selecting among alternative ways to perform that action (Drew & Heritage, 1992). For example, when questioned by a police officer, a suspect has a variety of options to answer back and defend himself/herself (e.g. denying, saying 'no comment', admitting, blaming the victim, etc.). The suspect has also several ways to perform each of these actions, either in terms of lexical and prosodical alternatives.

The third CA building block is sequence organisation. Those actions I referred above are not accomplished in isolation; they are done as a response to previous actions; that is, they are part of a sequence. If a first participant performs a particular action, the other one is expected to respond with an action that is paired or aligned to that previous action (Drew, 2005). For example, if a speaker's action is to ask a question, the recipient's action in response should be to answer. When a police officer's first action is to accuse, the suspect's action, in turn, should be to admit or defend himself/herself from it.

But how does one know if the police officer is accusing the suspects? How does one know if the suspect is defending himself/herself? In other words, how can we identify and label the action which is being accomplished by each participant in their respective turns within interaction? The answer to this question relies on the fourth CA fundamental concept: intersubjectivity. Action ascription is not a concern only for analysts; in fact, it is an issue for the participants themselves (Sidnell & Enfield, 2015). To deal with that issue, CA has developed what is called a 'next-turn proof procedure' (Heritage, 1984, p. 245), in which the sense of what a turn has accomplished is exhibited in the interpretation embedded in the subsequent turn. This device allows one to identify and ascribe actions even when these are designed in more subtle ways - e.g. a police officer's accusations or allegations are rarely made explicitly; it is partially due to the suspect's response to that that the analyst is able to understand which actions are being accomplished. CA is thus fundamentally concerned with how participants understand each other in interaction.

To sum up, these four concepts constitute the basis for CA's investigation of talk-in-interaction. They are the keystones of the conversational analytic mentality and functioned as guidance through my data analysis.

Conversation analysis and the study of institutional talk

CA originates in the groundbreaking lectures given by Harvey Sacks in the University of California at Los Angeles and Irvine, from 1964 to 1972. Although at that time most of the material analysed by Sacks was from institutional settings such as suicide calls and group therapy sessions, their 'institutional' character was not the focus of his research. In fact, Sacks seemed much more interested in studying the general issues of ordinary social interaction (ten Have, 2007), which resulted in a series of studies which were focused on the 'systematics of ordinary conversation' (Sacks et al., 1974).

Studies of institutional talk began to emerge in the late 1970s and they were focused on more restricted environments where the goals of the participants are more constrained and institution-specific (Drew & Heritage, 1992). The pioneer CA work in institutional settings was Atkinson and Drew's *Order in Court* (1979), which I discussed in more detail in the previous chapter. Over the years, this perspective advanced into studies of medical interactions (Heath, 1986; Peräkylä, 1995), classroom lessons (McHoul, 1990), news interviews (Clayman & Heritage, 2002; Greatbatch, 1986; Heritage, 1985), emergency calls (Drew & Walker, 2010; Whalen & Zimmerman, 1990; Zimmerman, 1992), and several other settings.

According to Drew and Heritage (Drew & Heritage, 1992), institutional talk is characterised by:

1) participants are often involved in particular goal orientations which are related to their institutional relevant identities, e.g. police officer, suspect, lawyer, etc.
2) special constraints about what will be considered as allowable contributions to the imminent work.
3) an association between the interaction and inferential frameworks and procedures which are particular to certain institutional contexts.

A considerable proportion of the early research on institutional CA was grounded on the assumption that researchers should apply the findings from ordinary conversation CA to the analysis of interactions in institutional settings. Therefore, these studies have more to say about interaction as an entity in its own right, rather than about the management of social institutional 'work' in interaction. Hence, there are at least two ways of studying interactions in, for example, police investigative interviews; one is examining it as *conversation* by focusing on some generic interactional features such as how participants take turns or how one action invites another to form a sequence. The other is to study police interviews as interactions in particular, i.e., as something shaped by the constraints and concerns of police work and legal regulations (Heritage & Clayman, 2010).

I have chosen the second approach; although the interaction remains the main concern of research, it is scrutinised in order to identify the particular practices of talk that embody or relate to particular identities and institutional tasks (Heritage & Clayman, 2010). In other words, my interest is not in talk-in-interaction per se or in its general features. I decided to study talk-in-interaction for its relevance as a vehicle by which lay people (suspects) achieve several practical goals and as a means through which the daily working activities of professionals (police officers and lawyers) are conducted (Drew & Heritage, 1992).

3.4 Summary

In this chapter, I have provided an overview of my data corpus and my methodology. I have described how I accessed the data and how I approached that material. I presented what I call a conversation analytic mentality and explained some of its main features. I have also shown how that mentality informed my research.

I will now move, in the next four chapters, to addressing my research questions and presenting my analysis. I will divide the thesis into two parts: the first two chapters focus on practices, actions and activities performed by police officers (interviewers), whereas the other two will explore the other side of the interaction, that is, what suspects (interviewees) do in response to the police officers' actions. Hence, I begin, in chapter 4 by examining how police officers may elicit prejudicial information from suspects. In chapter 5, I will describe in more detail how police officers transform and summarise what they themselves or the suspects have previously said in the interview. Following this, in chapter 6 and 7, I address two very particular defensive strategies adopted by suspects when questioned about their involvement in a criminal offence: portraying an event as an accident and blaming the putative victim. Employing the conversational analytic mentality, I will show that these practices and activities are fundamental for understanding how legal concepts not only inform these interactions but are also constructed through them. Interdisciplinarity has been a feature of CA from the very beginning. It has profoundly impacted several disciplines across social sciences and humanities, such as sociology, linguistics and social psychology. However, its impact in socio-legal studies and sociology of law has been limited, since interactional analysts often struggle to connect their findings to the main topics and themes in the field (Dupret, Lynch, & Berard, 2015; Travers & Manzo, 1997).

Chapter 4
Eliciting prejudicial information-as-evidence

4.1 Introduction

There is perhaps a popular stereotype of police questioning which is that it is characterised as an interrogation that leads to a confession. For example, if I was asked to describe a police-suspect interaction in England before gaining access to my data, my depiction would most likely have included a police officer asking questions to a suspected criminal in order to obtain a confession and thereby 'solve the case'.

It is not by chance that this is the picture we have about police work. At least in the United States, police officers are still trained in methods for interrogating people as part of their investigations. The US model for questioning suspected criminals consists of conducting a preliminary investigation to identify potential suspects and then interrogate them using accusatory techniques in order, if possible, to elicit a confession (Dixon, 2010). By using what is called the "Reid Technique", the investigator starts to put pressure on the suspect and builds up anxiety which facilitates the elicitation of a confession (Leo, 2008). In the US then, police officers design their actions to secure a confession, and hence the interactional practice is referred to as 'police interrogation'. Thus confessions are at the heart of police practice in the US criminal justice system and have been a subject of considerable interest among scholars from different fields in the social sciences (Feld, 2006; Leo, 1996, 2009; Shuy, 1998). These studies, though, are mainly concerned with the legality of such confessions; their authors assume the existence of false and true evidence *a priori,* and the use of the first one will produce false confessions and therefore miscarriages of justice.

Whilst a similar model of police questioning focusing on attempting to elicit suspects' confessions applied also to police practice in England and Wales, a series of legislative changes during the late 1980s and early 1990s were implemented that have resulted in a very different objective and style of questioning. These new laws included the implementation of the PACE Act 1984, which is an amalgamation of legislation and guidance related to human rights and the ways in which people are treated in custody; it is a legislative framework that establishes and circumscribes the powers of police and draws a code of conduct for officers (Carter, 2011). Among the main modifications carried out by the PACE Act 1984 are: a) the introduction of the right of free legal advice; b) the introduction of the tape recorder and the routine recording

of all interviews as a means of providing a record of what was said during interviews between suspects and police officers; and c) police 'interrogations' were formally annulled and became instead known as investigative interviews.

Police investigative interviews[41] are designed quite differently from police interrogations as they follow a framework developed in the 1990s, known as the PEACE model. According to this model, interviews should be organised around the following stages: preparation and planning; engage and explain; account, clarification and challenge; closure; and evaluation[42] (Griffiths & Milne, 2006). Investigative interviews do not rely on the 'Reid Techniques'; questioning is conceived as "investigative rather than accusatory: officers are warned against assuming the suspect's guilt and are encouraged to investigate with an open mind" (Dixon, 2010, p. 429). In these interviews, police officers' main job is to elicit from the suspect an account of what happened and then test that account considering all the other evidence they have previously collected, e.g. victim's and witnesses' statements, closed-circuit television (CCTV) cameras, etc. In this sense, investigative interviews differ from interrogations in terms of their main agenda, as in the former the focus is on gathering information rather than on obtaining a confession from the suspect.

From an interactional point of view, all these changes suggest that the context[43] in which an investigative interview takes place is far less accusatory than the one in which interrogations occur. This seems to be supported by the fact that police officers should, at least in principle, as far as possible avoid using leading and closed-ended questions, especially at the initial stage of these interviews[44].

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[41] According to the Code of Practice C, para 11.1, "an interview is the questioning of a person regarding their involvement in a criminal offence or offences which, under paragraph 10.1, must be carried under caution".

[42] In the first stage, officers deal with the legal and logistical issues concerning the interview, such as preparing an interview plan, arranging the room and testing the equipment. In the second stage, officers explain the legal requirements and the interview process to the suspect. In the third stage, officers invite the suspect to give an account and then probe it. In the fourth stage, officers close the interview and explain to the suspect what might happen after it. In the last stage, officers access the information collected in the interview and their own performance within it (Griffiths & Milne, 2006).

[43] The notion of context for CA differs from how social scientists often define it. For instance, ethnographers frequently argue that CA misses the larger context of talk (and its social background) since it only captures context within a sequence of utterances (Bourdieu, 1977; Moerman, 1988). Maynard (2006) called this the "contextual critique". The response to the critique is that "ethnographic insistence on the relevance of larger and wider institutional structures can result in a loss of interactionally consequential particulars, for attention shifts from concrete utterances in the fullness of their detail and as the embodiment of social actions to embrace narrative or other general accounts concerning social surroundings" (Maynard, 2006, p. 66).

[44] The guidelines of the College of Policing in the UK state that: a) closed-ended questions may have potential disadvantage of restricting an interviewee's account hence should be used only to clarify or extend an account that has already been elicited through open-ended questions; b) leading questions should only be used as a last resort since the information secured through them may be less credible and in some cases ruled inadmissible (College of Policing, 2017).

However, even though police officers in England, while conducting their interviews with suspected criminals do not explicitly seek or pursue a confession, they can - and certainly will – build particular *lines of questioning* (Atkinson & Drew, 1979; Drew, 1992) to test the suspect's story, claims or account, in ways in which elicit information that will be prejudicial to the suspect's version, i.e. *eliciting information-as-evidence*. And more important, police officers seek to manage questioning in such a way that the prejudicial information will, as it were, come out of the suspect's mouth or be attested to by him/her.

This chapter is focused on showing some particular features of police questioning in England and I will do that by describing and analysing episodes in which lines of questioning are constructed by police officers. It is organised in two sections: in the first one, I will show how questions in police investigative interviews have a progressive character; they move gradually from what appears to be a very innocent and neutral issue to a point at which the police officer reveals – or at least make more visible for the suspect and therefore for the analyst - what his/her project really is. In the second section, I will link the progressivity of police questions to what appears to be a major project in most of these lines of questioning, i.e. police officers are oriented to *elicit information* from the suspect in order to build some sort of *inconsistency* between the evidence they have already collected and what has been stated by the suspect in the interview.

4.2 Progressivity of questioning

As Atkinson and Drew (1979) have shown, questioning and answering is the most basic way in which to characterise the actions that take place in interactions in legal settings. In addition, these questions-answers pairs are designed to deliver other actions – and they can be understood as such by the recipients and therefore by the analyst. Police officers can then manage to package their actions as 'questions' and thereby avoid being seen as pursuing an agenda of their own or taking a stance. After all, at least in theory, investigative interviews are not supposed to be accusatory or hostile in the way in which questioning is in interrogations. Their task is to find out 'what really happened' and decide to whether or not to charge the suspect.

It may at this point be worthwhile to define *project* and *agenda*. An agenda is something that spans the entire interview/interaction or at least an entire phase of it, whereas a project is something more specific. In other words, one can say that a police officer has several projects throughout an investigative interview (e.g. construct an inconsistency within the suspect's

account) in order to achieve a particular agenda (e.g. gather material which can lead to a prosecution).

The following extract is from a police interview in which the suspect is a teenage girl who has been under suspicion of having assaulted another girl on the way home from school. Up to that point of the interview, the suspect had built a version in which the incident started as a result of an accident – she tripped and spilt some pop (i.e. soft drink) over the alleged victim – and it was the victim who actually initiated the fight by turning around, pushing her and then trying to punch her. In legal terms then, the suspect was trying to convey a sense of non-deliberateness and building a defence in which her actions could be characterised as 'self-defence'.

#4.1 [PN-03]

```
1  PO1:   °Okay° .hh can you uhm (.) >just tell me as well in your
2         own words< what you were wearing that day when you were
3         walking home,
4  S:     I was [wearing-
5  PO1:          [From top to bottom, >what you were wearing
6         on your feet as well<
7         (0.8)
8  S:     I was wearing a bandana (1.2) a skirt, a top and
9         a skirt- yeah (.) a skirt (.) a top and winkle ↓pickers.
10        (3.0) (note-taking sound)
11 PO1:   Okay. How- are they boots, you're saying winkle
12        pickers yeah=
13 S:     =( )they were (.) shoes like (.) open ↓shoes. (0.6)
14        That one's pointed=
15 PO1:   =So they were pointed shoes, yeah?
16 S:     Yeah.
17        (1.4)
18 PO1:   °Okay then° (5.6) ((note-taking sound)) Okay.
19        Do you at any time remember (0.3) erm (.) <kicking
20        Maureen>?
```

In her previous turns, the suspect had explicitly stated that she had not gone to the location where the incident occurred, i.e. outside the school, on the way to catch the bus, with the intention to fight the alleged victim. The extract then begins with the police officer acknowledging it ("°Okay°", line 1), followed by an apparently neutral and innocent question about what the suspect was wearing at the time of the incident (lines 1-3, "can you uhm (.)

>just tell me as well in your own words< what you were wearing that day when you were walking home"). This question is relatively open-ended and encourages the suspect to provide an answer in which she is allowed to describe any sort of clothing items that could cover any part of her body. These include a t-shirt, a dress, shoes, and a hat, none of which would initially indicate anything prejudicial to the suspect; they are items which normally are not related to criminal offences or their analytical components (e.g. *actus reus* and *mens rea*).

While the suspect is answering the initial enquiry (line 4, "I was [wearing-"), one of the police officers (PO1) begins speaking in overlap with her by adding an increment, firstly detailing the fact that the suspect's description should be done in a specific order (line 5, "[From top to bottom,") and then specifying she would also like the suspect to tell her what she had on her feet (lines 5-6, ">what you were wearing on your feet as well<"). The fact that this increment is done in overlap, when the suspect had already begun to describe what she was wearing, indicates its significance (for more information about self-corrections, including increments, see Drew, 2013). It indicates the parts or items in which the police officer is particularly interested, and starts to reveal what her project is – she seems keen to elicit some sort of information from the suspect regarding the sort of item she had on her feet at the time of the incident. This project becomes even more visible in her next turn. After the suspect's response in lines 8 and 9, when she answers her by listing a series of items she was wearing on that day ("I was wearing a bandana (1.2) a skirt, a top and a skirt- yeah (.) a skirt (.) a top and winkle ↓pickers."), there is a three-second gap in which it sounds as though one of the police officers in the room is taking notes – most likely regarding the information that had just been provided in the previous turn. After the gap, PO1 began to design her turn as what seemed to be another open question ("how"), but quickly abandoned it and reformulated her turn as a polar question about the last item on the description provided by the suspect: winkle pickers[45] (lines 11-12 "are they boots, you're saying winkle pickers yeah="). In so doing, she restricts the options available for the suspect and designs the question to elicit or prefer a confirmation, so she could proceed to the next question.

After getting a response from the suspect in lines 13-14, in which she characterizes the item as open shoes and adds that they were pointed ("=( )they were (.) shoes like (.) open ↓shoes. (0.6) That one's pointed="), PO1 quickly comes in – signaled by the latching (=) – and asks for confirmation in relation to the information provided by the suspect in her previous turn (pointed shoes). The relevance of this information becomes evident once the officers get the

[45] Winkle pickers are a style of shoe or boot which has a very sharp and pointed toe.

confirmation and one of them begins to write notes about it (line 18). Its significance is also noticeable as PO1 does not ask further questions about the item, but rather moves the conversation to the matter of actions: now that she has secured the characterization of the item used during the incident, she can go back to talk about the actions, in that case, the kicking (lines 19-20, "Do you at any time remember (0.3) erm (.) <kicking Maureen>?").

By looking at the previous extract, one can notice how the questions asked by the police officer gradually change their format: whereas the initial question is relatively open or unconstrained (lines 1-3), and gives the suspect latitude to develop her response, the following inquiries are quite the opposite as they restrict the range of appropriate answers (lines 5-6; 11-12; 15) she could give. This sort of progressivity suggests that the police officer has a project which unfolds or is gradually revealed as the questions are being posed to the suspect, although it is not clear from the beginning of the extract what the project might be.

The following extract is the continuation of the same interview:

#4.2 [PN-03]

```
18  PO1:   °Okay then° (5.6) ((note-taking sound)) Okay.
19         Do you at any time remember (0.3) erm (.) <kicking
20         Maureen>?
21         (1.3)
22  S:     Yes I do.
23         (0.3)
24  PO1:   >Whereabouts did you kick her?<
25         (0.2)
26  S:     I've no idea.
27         (0.6)
28  PO1:   Did you kick her in the stomach, in the chest, in
29         the back,
30         (0.2)
31  S:     I have no idea because she was- she was (.) grabbing
32         onto me and I was down, .hh and- and sh- she was kind
33         of like- I think she was either kneeling down in some
34         way (.) and she was like pullin- pulling down my top,
35         (0.2) .hh she was like pulling me tugging at me (.)
36         .hh and I just remember kicking her- I don't (0.2)
37         exactly remember where, because she was like (0.5)
38         kind of (0.7) crouched, so [I don't know.
39  PO1:                              [Okay .hhh from the injuries
40         that we've seen on Mau↑ree:n, (0.5) >you do know- you
```

41 do remember that she was remanded in hospital<
42 overnight, [don't you.
43 S: [(°yeah°)=
44 PO1: =Okay .hh the reason why Maureen was in hospital was
45 because she received a severe kicking (.) on her back,
46 .hhh which caused ehmm some (.) damage to her kidneys.
47 And at the time of the assault, she actually wet herself
48 (0.6) and actually that indicates- I mean >I'm not a
49 medical expert or anything< but that indicates that
50 she received a severe kicking in the back. (0.5) .hh
51 damage to her kidneys and for the hospital to remand her
52 overnight(0.5)for observations, and she also had ehm
53 (0.3) a CCT scan (0.4) to monitor her kidneys. (0.6) So
54 obviously she must have got quite a g- a good kicking in
55 the back=
56 S: =°Uhum°

At this point of the interview, what was seen as a neutral line of questioning starts to develop into matters which are rather relevant to decide whether the incident was just a scrap, that is, a minor fight triggered accidentally, or an assault committed deliberately ("*mens rea*" element) by the suspect.

In terms of progressivity, it is worth comparing how the turns in lines 24 and 28-29 are designed differently with respect to their level of constraint. After getting a positive answer about whether the suspect remembered having kicked the victim (line 22), PO1 designs her next turn by putting a rather open question to the suspect about where she hit the victim with her kicks (">Whereabouts did you kick her?<", line 24). The suspect then answers that by showing his defensiveness, i.e. stating she did not know where she had kicked the victim during the incident (line 26, "I've no idea."). By claiming during the interview that she does not know where she had hit the putative victim, the suspect is able to exhibit also her having taken no account of such details at the time of the incident. Being unable to remember such details is to exhibit them as having been unnoticeable at the time for the kind of participant she was (Drew, 1992), that is, someone who was not looking for a fight and was only defending herself after being unlawfully attacked.

Furthermore, there are two points in this sequence which are relevant for us here: 1) how PO1 treats this answer; 2) how the suspect responds to PO1's move. Even though PO1 could have asked the suspect why she did not have any idea of where she had hit the victim, or simply moved to a different topic, she persists with her line of questioning and reformulates

her inquiry by designing it as polar question in which candidate answers (in the stomach, in the chest, in the back; lines 28-29) are embedded in it. By so doing, PO1 treats the suspect's answer as unsatisfactory and conveying her scepticism. When faced with a reformulated version of the question, the suspect insists on saying he didn't know where he had kicked the victim ("I have no idea because…", line 31 onwards). In doing so, the suspect seems to be anticipating that the information she is asked to provide, i.e. the body part where she kicked the victim, will turn out to be prejudicial to her account. Her response is able to prevent or obstruct PO1's line of questioning. Put another way, "having no idea" can be used as a device to avoid confirming potentially prejudicial or damaging information (Drew, 1992, p. 481).

In addition to this defensive device, which had been already employed before (line 26), the suspect this time accounts for not remembering where she had kicked the alleged victim (lines 31-38). By accounting for it, the suspect put her actions, i.e. kicking, into a context in which they are detoxified, and their significance is downplayed. In her entire description (lines 31-38), she emphasises what the putative victim was doing, e.g. "grabbing on to me"; "I think she was either kneeling down in some way"; "she was pulling down my top". A description of her actions appears only towards the end of her turn, after she had built a picture in which the victim was attacking her, and the kicking was done as a response and in a very restricted space.

Thus, the use of such device suggests that the suspect starts to get the sense of what is the police officer's project. In the light of what transpires in #4.2, she can now see that PO1 is not asking neutral or innocent questions in #4.1; she is not interested in a description of the suspect's clothes per se; she has a *hidden project* and this project, although not perfectly visible for the suspect yet, consists of eliciting information which is going to help her to build an inconsistency between the suspect's version, i.e. the suspect's portrayal of the kicking as not particularly significant or serious, and 'what really happened', i.e. the kicking must have been very severe as she was in the hospital and had a CT scan to monitor her kidneys.

4.3 Constructing inconsistency

As previously observed, questions in police investigative interviews are not innocent or neutral. Police officers are not merely seeking information regarding an incident that has been reported and which they are now investigating. Although these interviews are undoubtfully relevant for police work, they are only a fraction of an investigation plan. Before heading to the interview room, the police officers responsible for the case quite often have already collected evidence such as CCTV footage and statements of all sorts (e.g. from the alleged

victim, witnesses, etc.). This means that when asking questions in an interview with a potential suspect, police officers will be informed about and may have formed impressions about 'what really happened', and more important, they will be able to use this information and these impressions to challenge, probe and test the suspect's account (the 'account and clarification' phase of the PEACE model).

The following extract is also from the interview with the teenage girl suspected of having assaulted a fellow student on the way home from school. As I mentioned, part of the suspect's defensive strategy, in this case, was to claim that the incident had been triggered accidentally. According to her, she was running to catch the bus when she tripped and spilt some pop over the alleged victim, who then reacted disproportionally by attempting to hit her. Instead of simply accepting the suspect's initial version, the police officer selects particular topics or items of the suspect's narrative in order to probe them.

#4.3 [PN-03]

PO1: Right I just wanna jus- (.) just to quickly to go back to this erm (.) this bottle that you were carrying as well.(0.7) Jus- >can you try and remember-< describe the bottle to me as well. You were saying it was a pull up top,
(0.5)
S: Yeah.
PO1: So was it like a squee:zy bottle of something=
S: =Yeah.
(0.4)
PO1: Okay .hh surely if you were tripping, (.) you tripped over something, (1.0) ho- how did the liquid go ou- come out of the bottle? (.) If it was- if it was a squeezy (0.2) a squeezy bottle with a pull up top.
(0.4)
S: Well, it was (.) it was obviously probably pulled up.
(0.4)
S: It was probably already up.
(1.3)
PO1: >( ) what I remember from a squeezy bottle<, you have to suck on the bottles (0.5) to let the fluid out, d'you know what I mean?
(2.2)
PO2: What we're getting at (.) is that (0.4) ( ) when you

25 tripped and the fight started because of tha- that
26 incident (0.2) right (0.2) .hh if a little bit of juice
27 came out of the bottle by accident, then yeah, I can
28 underst[and that.
29 S: [°Yeah°
30 PO2: But we've seen the top she was wea:ring, [( ) and it's
31 S: [Yeah alright
32 PO2: covered in it, so I can understand why (0.2) something's
33 kicked off.

As means to test and eventually to discredit the suspect's version that the incident started accidentally, PO1 begins to lay out, through her questioning the *inconsistency* between the suspect's account and 'what really happened'. PO1 designs a question about what appears to be a minor detail involved in the incident, i.e. the bottle the suspect was carrying, and which contained the liquid that supposedly spilt over the putative victim. One should pay particular attention to how PO1 designs her turn; initially, she asks a question which sounds like an invitation to the suspect to try to remember and describe the item – a bottle - to her. The suspect would then be able to build a description of anything related to the bottle, whether it was old or new, full or empty, small or big, and so on. Up to that point of the interaction, one could not see or envisage PO1's project. However, as I showed in the previous section, questions asked in police investigative interviews are constructed in a way that police interviewers gradually or progressively indicate which parts of the suspect's account they are more interested in probing, challenging or testing.

In the case of the extract above, PO1 begins to reveal her project in lines 4-5, when she formulates how the suspect had previously characterised her bottle ("You were saying it was a pull up top"). By adding this part to her turn, she explicitly indicates which feature or part of the item that will become particularly salient. The turn is then designed to seek confirmation, which she ends up obtaining in line 7 ("Yeah"). The confirmation provides an opportunity for PO1 to explicitly display an inference – which will turn out to be fundamental to her project - at the same time that she asks for confirmation about the same inference. But this time, PO1 portrays the bottle as a "squeezy bottle" (line 8), a characterisation which conveys more clearly the action that has been taken to release the liquid from inside the bottle: you would need to squeeze it, which basically could not be done accidentally.

The *inconsistency* starts to be constructed – or at least starts to become more visible to the suspect and therefore to the analyst – in lines 11-14, when the police officer juxtaposes

certain bits of information to begin to 'question' (in the sceptical, doubting sense) the suspect's version. PO1 does not explicitly say that there was an inconsistency. Instead, she asks a question in such a way that the inconsistency becomes evident. For example, she could have said that due to the type of bottle the suspect was carrying, the only way that the liquid could come out of it would be if she had squeezed it. However, she designs her turn in a way that this inconsistency is embedded in the question (lines 12-14, "ho- how did the liquid go ou- come out of the bottle? (.) If it was- if it was a squeezy (0.2) a squeezy bottle with a pull up top."). When I say 'becomes evident', this inference that the suspect's account is discrepant with this item of evidence (concerning the pull up top) becomes visible to the suspect who in her turns in lines 16 and 18 provides a 'defensive' detail (was already pulled up) that might help to account for or dispel the discrepancy. So now the progressive construction of inconsistency becomes visible to the recipient of the questions, namely the suspect. In other words, the police officer constructs a puzzle and leaves it unsolved, waiting for the suspect to come up with a logical solution, which in this case will be *prejudicial* to her.

The *prejudicial* character of the suspect's information was unclear at the outset of this line of questioning. In extracts #4.1 and #4.2, one would not think that by asking the suspect about a particular item of clothing she was wearing at the time of the incident, the police officer was attempting to elicit prejudicial information. The same could be said about extract #4.3, in which the question concerns the bottle the suspect was carrying when the event happened. What makes the information prejudicial is the fact that this is managed in such a way as to construct an *inconsistency* with either what the suspect had previously stated or what the police officer is about to reveal subsequently. For example, in extracts #4.2 and #4.3, the police officers' project is to show an inconsistency between the suspect's version and the evidence they had collected, e.g. outside sources of knowledge such as statements from the victim or witnesses. Although they could have simply directly challenged what the suspect had initially said, instead they adopt a more subtle and step-by-step method, progressively unfolding the inconsistency so as to be visible not only for the immediate participants, that is the police officer(s), suspects and any lawyers present, but also for the record that might hereafter be referred to in court, most probably by professional court personnel. (see Drew, 1992; Komter, 2012).

The following extract is from the same interview analysed above. Although the police officers have already demonstrated a couple of inconsistencies regarding the items involved in the incident and the suspect's initial version, they continue pursuing incongruencies, as one can see below:

#4.4 [PN-03]

PO2: Right (1.8) What have you fir:st done to Maureen, when that's happened? >You said she's turned round and pushed ya<

(0.2)

PO2: What's the first action you've done

(0.2)

PO2: in response,

(0.5)

S: I think (0.4) she turned round an' pushed me. And she swung from me. But [I-

PO2: [Right

(0.3)

S: .hh I d- I don't know how, but I ju- I kind of like stepped back from her,

(0.2)

PO2: Ri[:ght

S: [And I either punched her or slapped her,=

PO2: =Right [so yo- you

S: [I can't remember.

(1.1)

PO2: <So you say you> punched or slapped, but how was you- was that with your hand?

(0.5)

S: Yeah=

PO2: =Well how was your hand shaped?

(0.5)

PO2: when you res[ponded

S: [I can't remember=

PO2: =Right. (0.8) I would- then I would put to you (.) you've punched her quite hard because she's had an instant black eye. That's closed her [right eye.

S: [Mhmm

(0.7)

PO2: We've got photographs of that, we've seen tha:t, (0.2) that's been taken by the school (0.2) and the school have seen that as well

(0.3)

PO2: Now (0.2) f- for someone to get a real good smacking bruise (.) on their right eye (0.2) is not a slap, (0.2) it's a punch.=

```
42 S:       =Mhm
43          (.)
44 PO2:     >So I'm saying to you, you punched her.<
```

Again, it is not clear from the beginning of this extract what the PO2's project is, as he designs his question in a relatively open and unconstrained format (lines 1-2, "What have you fir:st done to Maureen when that happened?"). He then adds a formulation as an increment, using what had been stated by the suspect as her version of events ("You said she's turned around and pushed ya", lines 2-3). Getting no response from the suspect, he rephrases his question, producing a version in which he states explicitly that the action of the suspect was, in fact, a reaction ("in response", line 7). In line 18, the suspect finally begins to disclose the information which PO2 has been searching for since the start of the interaction. But she does so by displaying uncertainty as her description is comprised of two alternative actions ("I either punched her or slapped her").

Up to that point in the interaction, suspect and police officer seem to agree that 1) the suspect had done something against the victim; 2) that was done in response to something the victim had done immediately before. The dispute resided then in what exactly the suspect did, what exactly was the action performed by her as a response to what she claims (note PO's use of 'you said' in line 2 and 'you say' in line 22) was the turning and pushing?

What makes this excerpt relevant is how the police officer designs his turns in order to challenge the suspect with discrepant information and show the *inconsistency* between her version and what the police officer knows about the event – and also what everyone knows about the different injuries of getting punched or slapped on the face. In other words, PO2 has managed the sequence so as to confront and possibly undermine the suspect's story with incongruous information about the event, that is, that the injury sustained by the putative victim might seem incommensurate with one of the two possible actions which the suspect alleged having done, i.e. slapping her. Instead of asking whether the suspect had punched or slapped the putative victim, PO2 asks about the shape of the suspect's hands at the time of the action, emphasizing the word 'how' ("<u>how</u> was your hand?", line 26). As 'everyone knows' one of the features that differentiates a slap from a punch is the shape of the hand while one is performing it. Although PO2 asks about it, he is not actually interested in that distinction per se. This is not an innocent or neutral question. What makes a punch different from a slap in this context is its ferocity and its disproportionality in regard to what has been done first – the pushing. PO2's

turns are designed to undermine the suspect's account in which she had used reasonable force to defend herself from the victim's (imminent) attack.[46]

Although the suspect uses a device to avoid admitting what she had done to the victim, she is trapped ("[I can't remember=", line 29), as it is revealed in lines 30-32 and 39-42. The police officer makes a knowledge claim ("I would put it to <u>you</u> . . .", line 30, and "So I'm saying to you . . ." line 44) about the shape of the suspect's hands by stating he had seen photographs i.e. material evidence, in which the alleged victim's eyes were closed and bruised ('black eyes'), which supports the version in which the suspect had thrown a punch at her. What makes it a kind of 'trap' is the combination of the police officers' *first-hand knowledge* about the consequences of the event – they saw the victim's closed eyes in photographs – and what is *commonsensical* regarding the different outcomes of taking a punch or a slap – one rarely would get instant black and closed eyes due to a slap. In this case then, what is in dispute is whether the suspect's response to the victim's action was disproportionate or not. The police officer makes the inconsistency visible and, in that way, casts doubt on or even possibly undermines the suspect's version.

There are various types of *inconsistencies* or *incongruencies*. In extracts #4.2, #4.3 and #4.4 the inconsistency, incompatibility or discrepancy is visible in the contrast between the suspects' accounts (what they were stating as their version of events) and the material/physical evidence gathered by the police (what they have seen or heard about the events and the consequences of the events). Another type of inconsistency can be noticed in the extract below:

#4.5 [PN-100]

1	PO1:	So you've not actually seen them kick your door then
2		(1.2)
3	PO1:	What you getting at- you've just told me [you've seen them run
4		down the driveway.
4	S:	[I was still at the top
5		of the road
6		(.)
7	S:	Yeah- but you can't- when you get- my driveway's got a <u>garage</u>
8		next to the side, you can't run down past the front door
9		(0.5)

[46] In her first account during the interview, which will be discussed in more detail in Chapter 6, the suspect had stated that the putative victim had pushed her and went to punch her, which might be used as evidence to demonstrate that the suspect was acting in self-defence. Self-defence is used to describe cases where a person uses reasonable force to, for instance, defend himself or another against an actual or imminent attack (Card & Molloy, 2016, p. 677).

you- you're gonna run int- into a wall.
(1.6)
PO1: Ri:ght
(0.5)
S: >So where were they running to?<
(1.0)
PO1: So (.) what you are telling me then is you not actually seen them kick your door in?
(0.3)
S: But there's ca:rs and tree:s an- I see them running towards the d[oo:r
L: [You see them running towards the do[or
S: [shouting let's get in his fucking house, let's rape his daughters (.) [and when I get the door's open]
PO1: [You've just told me a minute ago-] you've just told me a minute ago
S: Yeah=
PO1: =Yeah you seen them kicking the door down
(0.3)
PO1: trying to kick in your door
(0.7)
PO1: Yeah?
(0.3)
PO1: >And now you're telling me you've not actually seen them kick your door.
(0.4)
S: I didn't actually see them physically kick the door, I saw them running towards the door, let's [get in his fuck-
PO1: [That's not what you told me a minute ago
(0.2)
PO1: Yeah?
(0.5)
PO1: So why don't you tell me exactly what's happened last night
(1.0)
S: What's this going on?
(2.0)
PO1: I'm just asking you some questions.

The *inconsistency* in this example consists of the discrepancy between what the suspect had stated at a previous stage in the interview and what he is saying now, in the extract. This is suggested by the police officer in lines 17-19 ("You've just told me a minute ago you seen them kicking your door down, trying to kick in your door. And now you're telling me you've not actually seen them kicking your door."). In this case, there are two versions of events which cannot coexist. One cannot have seen and not have seen someone kicking the door at the same time. By making the *inconsistency* visible, the police officer challenges the *internal coherence* of the suspect's account, instead of relying on presenting material/physical evidence as in the cases #4.2, #4.3 and #4.4.

Again, the police officer does not need to say that there was an inconsistency between A and B to make that visible for the suspect and indeed for the record of the interview, which may be used subsequently in court. Its visibility relies on *mundane reasoning practices* (Pollner, 1987) which begin with the assumption that there is an objective reality available 'out there'; that is, when questioning suspects, police officers make a fundamental assumption that everyone has potential access to the same underlying reality.

A similar practice is observable in the following extract:

#4.6 [PN-25]

```
1  PO1:   As we've been travelling o:ver (0.5) <you said two comments>
2         (0.9) Uhm (.) the car hasn't moved since I was there yesterday=
3  S:     =Ye:ah
4         (0.8)
4  PO1:   So: that car's been in exa:ctly the same position overnight and
5         all th- all day today=
6  S:     =Ye:ah.
7         (0.3)
8  PO1:   Right (1.0) >It's parked in exactly the same position<
9         (0.2)
10 S:     °I think so, yes:°
11        (1.1)
12 PO1:   Okay wel- (0.4) >if it hasn't moved then it's bound to be in
13        exactly the [same position<]
14 S:                 [I believe so  ]
15        (0.9)
16 PO1:   Okey dokey .hhh ri:ght (1.8) >Has anyone else< used that car
17        today,
18        (1.1)
```

19 S: They may've done
20 (5.3)
21 PO1: Who would have used it today?
22 (0.2)
23 S: °I'm not wi:lling to sa:y°
24 (0.9)
25 PO1: Okay (2.6) So you're saying that someone ma:y have used it today
26 [but a minute ago you just said it hasn't moved,
27 S: [Yes
28 (1.0)
29 S: We:ll I've not moved i[t
30 PO1: [So:- yeah but- no, you said the car hasn't
31 moved
32 (.)
33 PO1: They we- they were your words to me

Here the police officer's agenda seems to be making the suspect admit that he had driven his car and hence broken his bail conditions. The presupposition, in this case, is that the suspect had in fact broken his bail conditions, which was testified by two police officers who had allegedly seen him driving his car. The suspect insisted that the car had not moved during the entire day, being kept in the same position for the whole time (lines 1-14). When asked whether someone has used the car that day (">Has anyone else< used that car today," lines 16-17), the suspect gives an answer which neither denies nor confirms that someone has ("They may've done", line 19), opening the possibility for the police officer to present an *inconsistency*. Similar to what happened in the previous case, here the police officer constructs the inconsistency by making reference to the suspect's own words, i.e. contrasting what the suspect has just been said ("So you're saying that someone ma:y have used it today", line 25) to what he had previously stated ("but a minute ago you just said it hasn't moved", line 26), which is designed to undermine the *internal coherence* of his account.

In all these cases, as is generally the case in my data, the police officer's project seems to be to progressively construct an inconsistency between the suspect's story and the evidence previously collected by the police, or to point to an incongruency between two parts of the suspect's own account. Rather than explicitly claiming that there is an inconsistency, police officers put together two incongruent pieces of information, relying on the practices of *mundane reasoning* and the juxtaposition of incongruent evidence to display the inconsistency between them.

4.4 Conclusion

I started this chapter by showing that there is a stereotype about police questioning: officers interrogate suspects in order to obtain a confession. The stereotype applies to the US police system but not to the England one, possibly due to the implementation of the PACE Act 1984. Although the literature on police-suspect interactions lists a series of tactics which are often employed by officers when questioning suspects, such as deception, developing rapport, providing expert knowledge, using accusations and verbal abuse, etc. (Sanders, Young, & Burton, 2010), my data suggests that this is not the case in England. In fact, as I have shown, due to the interviewing model adopted by police forces in England, officers are not explicitly looking for a confession when questioning suspected criminals. The main focus of investigative interviews is "on obtaining as much as information as possible from the suspect while minimising the risk of it being ruled inadmissible by a court" (Sanders et al., 2010, p. 306).

The changes in the legislation concerning policing and questioning suspects has created a series of new constraints for police officers to question suspects. However, it has not eliminated the fact that they have an agenda (e.g. establishing what happened and building a case for a potential future prosecution) and projects (e.g. test, probe and challenged the suspect's account and elicit information from which one can tell that the suspect's story is not 'truthful') and will pursue these throughout the interaction. Police questioning in England seems to involve devices or *ethnomethods* (Garfinkel, 1967) that are much subtler and more refined than the tactics often associated with interrogations and which are legally prohibited.

I have shown also that projects such as to elicit prejudicial information from the suspect are not done at once; police officers will carefully and progressively construct lines of questioning (Atkinson & Drew, 1979), starting from what appear to be innocent and neutral questions until they gradually exhibit their project: their questions are designed to reveal weaknesses within the suspects' accounts. Suspects are often able to recognise that the relevance of a particular question depends on it being part of a line of questioning, and as soon as they do that, they will treat these questions as something more than innocent and unmotivated enquiries (Atkinson & Drew, 1979, p. 141).

When employed, these lines of questioning enable the police officer to exhibit inconsistencies between what the suspect said in his/her master narrative/initial account and the information that is later revealed either by the suspect himself/herself or the police officers (e.g. victim's statement or any other evidence previously gathered).Also, rather than overtly

stating or claiming an inconsistency, officers rely on the practices of mundane reasoning to exhibit inconsistency, to make it visible for the participants and for the record. . In these interviews, police officers are monitoring the coherence and consistency of suspects' accounts based on commonsense knowledge of social structures (Komter, 2003; Sacks, 1992), and these sense-making procedures are essential for them to bring the incongruencies of these accounts on to the surface of talk and build evidence for a potential prosecution.

Chapter 5
Formulations in police interviews with suspects

5.1 Introduction

At an early stage at my research, I set out to create an overview of my data, in a table that would summarise a) the criminal offence for which the suspect had been arrested, b) the defence that was offered by the suspect, and c) the nature of the evidence presented by the police questioners to challenge or negotiate the version of events given by the suspects. I have shown the table that emerged from my *overview categorisation*, in my methodology chapter (Chapter 3). However, in completing this table, I encountered a number of difficulties, the first of which was to categorise appropriately the relevant crime for which the suspect had been arrested; this might seem to be a simple matter, because surely the crime involved, or the nature of the offence, would seem to be obvious from the outset of an interview – but in fact, what I found was that the police questioners did not always make explicit either at the beginning of the interview or any point subsequently what offence the person being questioned is suspected of having committed, and for which they have been arrested. Moreover, the *categorisation* may often change over the course of the interview inasmuch as the suspect or the police officer reveals new or different information about the event. For example, in one of the interviews, the police officer initially states that the suspect had been arrested on suspicion of criminal damage, but as the interview progresses, he changes the categorisation to arson, that is, criminal damage by fire.

A similar challenge occurred in regard to the categorisation of the defence employed by the suspect, in relation to what there were two interrelated difficulties: a) suspects do not explicitly state the nature of their defence, that is, their defensiveness is embedded in the descriptions that comprise their narrative; b) they do not present their defence in conformity with legal terminology or typology. In other words, suspects very rarely voice their defence as things like self-defence, accidental, not-intentional, etc. By doing that, it is left to the police officer to infer or formulate these defences in terms of some sort of *legal terminology*, using their professional knowledge.

In other words, as I was deciding how to categorise the offences, I noticed that the process of categorisation is a practical task *for the participants themselves*, as these categories seem to be rather fluid and their use depends on what takes place throughout the interactions -

on the questions being asked and the answers being given. Analysing the interviews, I also noticed that there are episodes in these interactions in which the participants, mostly police officers, clarify or infer what themselves or the others had said about the nature of the incident. The extract below is a clear example of these interactional episodes:

#5.1 [PN-03] (assaulting a colleague from school)

```
1  PO2:   Were you- as angry then as you are now?
2         (1.8)
3  PO2:   Do you[feel-
4  S:           [No but I should- I've a right to be angry when you're
5         telling me what's what and you don't know what's what so how can
6         you tell me .hh ohh .hh listen, I should have walked away. What I
7         done was wrong. I already kno:w that, thank you very much. I'm
8         not sat here and said, yeah, I done this, so what. Do you know
9         what I mean?  So please do not tell me what you think is right
10        because you don't know what situation I was in, okay?
11        (1.0)
12 S:     I don't agree with it.
13        (3.7)
14 PO1:   I think what we're trying to say i:s that obviously what's
15        happened is wrong.  And you have no right to [carry on doing what
16 S:                                                  [(    )
17 PO1:   you doing=
18 S:     =Yes I know that.
19        (1.3)
20 PO1:   Okay.
21        (0.5)
22 PO1:   >Have you got anything further to add?<=
23 PO2:   =So you admit the assault then Abigail,
24 S:     Ye:s I do:.
```

One can see in the extract above two episodes in which the police officers clearly *formulate* what has been said previously about the incident. The first one occurs in lines 14-15, when PO1 formulates her and her partner's own words and specifies that an offence has been committed ("obviously what's happened is wrong"). She does that by selecting a small fraction of what the suspect had said in the prior turn regarding the wrongfulness of her conduct and deleting the rest of the account, that is, removing the circumstances surrounding the apparent admission ("What I done was wrong", lines 6-7), i.e. PO1 prunes away the context offered by

S in her answer and focuses specifically on the wrongdoing. The second one ("=So you admit the assault then Abigail,", line 23) occurs after S had agreed with PO1 in regard to the wrongful nature of her conduct ("=Yes I know that." line 18). This extract suggests that police officers have at least two alternative options in questioning a suspect once there is an apparent admission of a wrongful conduct: one is to ask the suspect whether he/she has anything else to add (line 22), the other is to formulate the admission in legal terminology (e.g. admitting the assault) in such a way as to put that on the record (line 23). These questions are alternative because there is nothing between them and the second one comes straight after the first (which is indicated by the latching).

The example #5.1 shows how my interest in formulations has arisen. Not all of these formulations are about the process of categorisation of crimes and defences, but they can certainly play a significant role in that process, as they are used to put on record particular categories which are legally relevant, i.e. *legal terminology*, and could be used in court if needed. They are the moments in which the participants explicitly describe the nature of the offence (and about the respective defences). In this chapter then, I will investigate the uses of formulations in police interviews with suspects in England. I will explore the episodes in which police officers and sometimes suspects explicitly formulate the sense of what they have been saying in the interview. Who are these formulations attributed to? How are they constructed? And most important, what are the actions and activities performed through formulations in this particular setting?

5.2 What are formulations and why studying them?

Before examining formulations in my data and addressing the questions outlined at the end of the previous section, it is important to summarise what I mean by formulation and why it is relevant to study this practice in the context of police interviews with suspects.

The term 'formulation' refers to two different, albeit interconnected phenomena. It was initially coined by Garfinkel & Sacks (1970) to refer to a practice employed by members as a remedy for the indexicality of activities - including those performed through language (Garfinkel & Sacks, 1970, p. 170). Although focusing mainly on the professional work done

by sociologists[47], the authors also highlight that formulating and glossing practices are used by speakers in general, regardless of the setting. Furthermore, besides being able to produce some objectivity, they are also capable of making explicit the talk that was indexical in the previous turns. According to them:

> A member may treat some part of the conversation as an occasion to describe that conversation, to explain it, or characterize it, or explicate, or translate, or summarize, or furnish the gist of it, or take note of its accordance with rules, or remark on its departure from rules. That is to say, a member may use some part of the conversation as an occasion to formulate the conversation. (Garfinkel & Sacks, 1970, p. 167)

Thus, the first notion of formulation refers to a very broad phenomenon which involves all sorts of meta-communicative and self-reflexive descriptions in conversation, and it is a mean through which members display the intelligible and accountable features of the interactions they are involved in (Deppermann, 2011).

The original definition of formulation was refined by Heritage & Watson (1979), who studied "some instances in which the achievement of conversational order becomes for participants, albeit temporarily, a topic in its own right." (Heritage & Watson, 1979, p. 124) and showed how the practice of formulating is often used by professional agents to transform laypersons' accounts according to their institutional relevance.

The authors also divided formulations into two main types: *gists* and *upshots*, referring respectively to the actions of summarising what another speaker has said, and drawing out the implications of what another speaker has said. They focused specifically on the first type – gist -for which they identified three analytical properties, namely, preservation, deletion and transformation (Heritage & Watson, 1979, p. 129).

The second notion of formulation was used by Schegloff (1972), who defined formulations as "places in conversation where an object (including persons) or activity is identified" (Schegloff, 1972, p. 80). His work is based on the assumption that although there are multiple ways to refer to a particular referent, speakers will select one according to the action they are aiming to perform and the interactional context in which the formulation is

[47] Garfinkel & Sacks (1970) are particularly interested in showing the intrinsic weaknesses of how 'mainstream' sociology is done. Their argument is that those sociologists, in the course of doing their analyses, formulate or gloss what participants have done in the study (e.g. coding practices) in order to clear the indexical (contextual) character of the data and increase its objectivity.

embedded. He was interested in how these different formulations are selected by people under specific interactional circumstances.

The common aspect between these two notions of formulation is the fact that both approaches deal with *descriptive practices*, i.e. how persons, objects, events and actions are put into words (Deppermann, 2011, p. 118). The problem with the second definition is its breadth, to the point which there is no visible distinction between *descriptions* and *formulations*. Hence, in this chapter, when I refer to formulation and formulating, I am referring to the first definition[48], i.e. my focus here is to examine and describe how participants make explicit their sense "what we are talking about", or "what has just said"; how they build an explicit sense of the gist of the talk thus far (Drew, 2003, p. 251).

The use of formulations as a practice in talk-in-interaction have been studied in several different institutional settings, such as news interviews (Heritage, 1985), psychotherapy (Antaki et al., 2005; Davis, 1986), medical consultations (Ostermann & da Silva, 2009), industrial negotiations (Walker, 1995), radio call-in programmes (Hutchby, 1996) and police interviews with women reporting rape (Macleod, 2010). Whereas formulations constitute a generic practice in talk-in-interaction, their use is adjustable or adaptable according to the action or activity the participants are performing; in other words, formulations have multiple interactional functions – participants manage different activities - in different settings (Drew, 2003), and their formats or design differs according to the settings and activities for which they are being employed. For example, in news interviews, interviewers formulate interviewees' prior answers in order to invite them to say more about a particular point of that answer and make it more newsworthy or controversial (Heritage, 1985, pp. 108–112). In industrial negotiations, one side formulates what the other is proposing in order to establish the basis for an agreement that will resolve part of the negotiation (Walker, 1995). In both cases, the formulation is employed to suit the institutional purposes participants have as part of their jobs, that is, to generate controversy in the case of news interviews and, settle a compromise or at least to pin the other down to a position in industrial negotiations.

Something similar applies to police interviews, in which police officers have institutional goals to achieve and an institutional agenda to fulfil. For example, in the extract #5.1 examined in the previous section, one can see that the suspect gives a rather extended and

[48] About the multiple definitions of formulation and its particular use in CA: "(…) it seems that in the wider usage of the term in the CA literature and around it, a 'formulation has come to mean – in its most permissive usage – any commentary by one speaker, in whatever format, which may be taken to propose or imply a reworking of events described or implied by a previous speaker."(Antaki et al., 2005, p. 643).

defensive response (lines 4-10) to the question posed by PO2 in the prior turn (lines 1-3). What the police officers are trying to do then is to pull this answer into a shape that is *legally* relevant. They do that by refining what the suspect has said in such a way that they select only the parts which have legal implications and delete the rest of S's response. In the case above, PO1 picks "what I done was wrong" (lines 6-7), transforms it into "obviously what's happened is wrong" (lines 14-15) and deletes the other circumstantial information provided by S in her answer. Once the suspect agreed to this formulated version ("Yes I know that", line 18), PO2 comes in with an inferential formulation, this time, even more dramatic and legally implicative, transforming "what's happened is wrong" and the subsequent agreement into an admission of a criminal offence, i.e. assault ("So you admit the assault then Abigail", line 23).

When used by police officers, formulations are employed in order to highlight the most essential parts of the answers provided by the suspects. Given the fact that these answers are quite often built in a narrative format and are fairly lengthy, formulations operate by condensing that account and selecting only what the police officers consider relevant for their institutional enterprise and by putting that recycled information on the record. Thus, the relevance of formulations – and consequently of studying their use – is their capability of revealing what are the most fundamental activities in a particular setting and how participants manage them. Since "formulations are associated with activity sequences which are especially characteristic of certain forms of talk-in-interaction." (Drew, 2003), by investigating the activities which are done through formulations, one can identify the core activities of a specific setting, in this case, police investigative interviews with suspects.

5.3 Police officers' self-attributed formulations

Formulations seem to be a pervasive phenomenon in police interviews with suspects. It is not a surprise then that I have been able to identify instances of this interactional practice in each of the 27 interviews that comprise my data corpus. From what I could find, there are three main types of formulations, in regard to *who perform them* and *who they are attributed to*. The table below illustrates this typification:

Table 3: Types of formulations in police interviews

	Self-attributed	***Other-attributed***
Police officer	"What I'm saying is you were given all this- you were given this warning on Saturday (…)"	"So you admit the assault then Abigail"
Suspect	"What I'm saying is it all happened that quick and were over and done that quick"	

The table shows a few examples of the types of formulations I identified in my data corpus. The typification is based on Heritage & Watson (1979) who report that formulations can be used by the participant who is informing something (news delivery) or by the participant who is being informed about something (news recipient). *Self-attributed formulations* and *other-attributed formulations* refer to these two kinds, respectively.

A considerable proportion of the cases is composed of *police officers' self-attributed formulations*, that is, instances in which the police officers are formulating what they have said to the suspects:

(from #5.1)

14 PO1: I think what we're trying to say i:s that obviously what's
15 happened is wrong.

#5.2 [PN-27] (breaking a harassment warning)

1 PO1: What I'm saying is (0.4) ehm:: you were given all
2 this- you were given this warning on Saturday

#5.3 [PN-12b] (threatening and abusive behaviour)

1 PO1: I'm just asking [you] if you wanna make any comments.
2 S: [yeah]

The most common type of formulations in my data, though, is the one in which police officers formulate what the suspects have previously said; these are examples of *police officers' other-attributed formulations*:

(from #5.1)

23 PO2: =So you admit the assault then Abigail,

#5.4 [PN-122] (assault and arson)

1 PO: So you're telling me: then (0.5) that you (0.3) assaulted
2 Sonia.

#5.5 [PN-19] (criminal damage)

1 PO1: So you're denying slapping this ehm: guy then,

Although far rarer in my data, the practice of formulating their own talk is also used by suspects (*self-attributed formulations*):

#5.6 [PN-12b] (threatening and abusive behaviour)

1 S: .hh I'm not saying I don't remember. What I'm saying is >it all
2 happened that quick and were over and done that quick<=

Whilst in other kinds of settings such as industrial negotiations, one commonly finds both self and other-attributed formulations employed by all participants (both sides) involved in the interaction, I was unable to identify a single instance of *other-attributed formulations* performed by suspects, which might be explained due to the rather confrontational and implicative character of this practice.

The focus of this chapter is on formulations employed by police officers because these represent the vast majority of the cases and appear to play a pivotal role in the process of categorisation of criminal offences throughout the interviews, as I briefly mentioned in the introduction. In this section, I will examine cases of self-attributed formulations, and in order to do this I shall refer back to extract #5.1:

(from #5.1)

1 PO2: Were you- as angry then as you are now?
2 (1.8)
3 PO2: Do you[feel-
4 S: [No but I should- I've a right to be angry when you're
5 telling me what's what and you don't know what's what so how can
6 you tell me .hh ohh .hh listen, I should have walked away. What I
7 done was wrong. I already kno:w that, thank you very much. I'm
8 not sat here and said, yeah, I done this, so what. Do you know
9 what I mean? So please do not tell me what you think is right
10 because you don't know what situation I was in, okay?
11 (1.0)

12 S: I don’t agree with it.
13 (3.7)
14 PO1: I think what we’re trying to say i:s that obviously what’s
15 happened is wrong. And you have no right to [carry on doing what
16 S: [( )
17 PO1: you doing=
18 S: =Yes I know that.

In this case, S was arrested on suspicion of assaulting a fellow student on their way back from school. The interaction above occurred towards the end of the interview, when S was providing her reasons – she was angry - for having had an altercation with the other girl. When asked if she was as angry at the time of the incident as she was when being interviewed, S not only denies it (“No”, line 4), but also gives a fairly lengthy answer in which she touches upon several other issues such as why she was angry during the interview (lines 4-5), what she should have done instead of getting involved in the incident (line 6), etc. Among these other issues, there is an admission about the moral nature of her conduct (“What I done was wrong”, lines 6-7). This extended account is followed by a long gap in line 13 and then by a police officer’s self-attributed formulation (“I think what we’re trying to say i:s that obviously what’s happened is wrong”, lines 14-15). This formulation is particularly interesting for a number of reasons, especially in terms of how it is designed and when it happens, i.e. the interactional environment. First, PO1 formulates not only what he had said prior to that, by using the personal pronoun in the plural, “we”; he also formulates both what she (PO1) and her partner (PO2) have been saying to the suspect. Second, the key part of the formulation (“what’s happened is wrong”) is built by borrowing a word (“wrong”) that has been used by the suspect herself in the previous turn. In doing so, PO1 is able to remove all the unimportant or incidental information and to highlight only the fragments which are pertinent for the police to build a case against the suspect, for example, a fragment which contains an admission of the wrongdoing.

In relation to the interactional environment in which these self-attributed formulations occur, one can notice that they are often located in sequences where the participants are disputing or at least negotiating certain points about the case. In extract #5.1, the formulation is employed right after a disagreement concerning the reason given by S to account for her misconduct.

The next extract is another case in which self-attributed formulations are used by police officers for very much the same purposes and appears in a similar interactional environment:

#5.7 [PN-27] (breaking a harassment warning)

PO1: Ehm: (.) I've been told by my colleague and also (.) I've got a pocket notebook statement here saying .hh that (0.4) you've been given the details of first harassment warning, (.) .hh which i:s basically not to contact, try and make contact, interfere with,(0.6) all them sort of things, you know, which includes knocking on doors, sending letters, (.) telephoning,

S: And I >kept to that.<=

PO1: =Right, well >I'm coming to that now, okay?< .hh right

(0.3)

L: Is the pocketbook eh: entry here?

(0.4)

PO1: I have, yeah, I've got a photocopy- a copy of it, yeah.

(0.4)

PO1: Ehm: (0.5) what I'm saying is (0.4) ehm:: you were given all this- you were given this warning on Saturday .hh ehm: I've got a copy of the pocket notebook .hh which you've si:gned

(0.6)

PO1: here to say: (.) to this effect (0.6) >okay<?

(0.5)

PO1 Ehm: this obviously been taken ou:t (.) again:st you due to the fact that over the la:st (0.8) two weeks roughly (0.4) ehm:: .hh we've had incidents o:f letters being sent to the address, knocking on doo:r, .hh ehm:: coming to the front door an'(0.4) tryin' to(0.3) get- ehm: Sarah to talk to you,

S: Not – she doesn't say ( ) coming in=

PO1 Yeah not say- I'm not sayi:ng- >we've not got to that part yet.< What I'm saying is .hh I'm building up to what's led to this incident,

(0.4)

PO1: Okay? .hh you've been banging on the lounge wa:ll, (0.8) ehm:: done so on the twenty secon:d, again on the twenty seventh, ehm:: (1.0) pushing notes through doo:rs twenty eight (0.9) ehm:: further notes through on the twenty ni:nth, (0.7) okay?

(1.0)

PO1: D'you wanna explain to me (0.3) obviously your actions over the last couple of weeks?

In this case, S is being questioned about potentially having broken a harassment warning which prohibited him from contacting his former girlfriend. From lines 1-6, one can

see an embedded allegation constructed by the police officer, presumably leading towards the fact that S had broken certain conditions of his harassment order. S foresees this potential allegation and builds an implicit denial in his next turn by saying he had acted in accordance with the prohibitions imposed by the warning (">And I kept to that<", line 7). This defensive move indicates that S is inferring that the police officer might suggest that he had broken the harassment warning. The same sort of defensiveness is also present in the lawyer's turn in line 10 ("Is the pocketbook eh: entry here?"), when he tries to block or push back against the allegation which was being built up by the police officer. He does that by asking whether the police officer had the documentary evidence on hand at the moment of the interview, that is, if he had the pocketbook which contained the statement saying that the suspect had been given the details concerning his harassment warning.

After dealing with these two blocking attempts, first by the suspect, then by the lawyer, the police officer brings the interaction back on track by formulating what he had said previously in lines 1-6. He begins to design his turn with the descriptor "what I'm saying is", which indicates he is about to rework a prior version of a description, in this case, a description constructed by him and which was used to build up an allegation against the suspect.

In this new version (lines 14-24), although some elements of the allegation are maintained, e.g. the fact that S had been given a harassment warning, one can see major changes in how it is built. For example, whereas in his first version (lines 1-6), the police officer goes on to explicate in general terms the actions which are prohibited by the warning ("not to contact, try to contact, interfere with", lines 4-5) and then specifies these actions using examples ("which includes knocking on doors, sending letters, (.) telephoning", lines 5-6), in the second version he reveals that in the last couple of weeks there were a few incidents involving just those prohibited actions ("over the last two weeks roughly we've had incidents of letters being sent to the address, knocking on door, coming to the front door and trying to get Sarah to talk to you", lines 21-24).

The main aspect in which the original description differs from its formulated version is the explicitness of the allegation embedded in each of them: in the former description, the police officer simply discloses that he was aware that S had been given a harassment warning and explains what the warning consisted of; in the latter one, he reveals that the police (he uses the institutional "we", line 22) knew that the prohibited actions were carried out, even though he carefully describes these conducts as agentless (notice the use of the passive form or impersonal constructions: "we've had incidents of letters being sent, knocking on door, coming to the front door and trying to get Sarah to talk to you"). In other words, the police officer

gradually becomes more direct and reveals his allegation although he does that without explicitly accusing the suspect.

Following this first formulation, S anticipates the allegation being constructed and displays once more his defensiveness by disagreeing (line 25) with what the police officer has just previously stated (lines 14-24). This further attempt to deny or at least deflect the allegation is followed by another self-attributed formulation produced by the police officer (lines 16-33). In this new version, he reveals the *gist* of his previous talk by *saying-in-so-many-words* what he has been doing, that is, that he was building up to what has led to the incident (lines 27-28). He then makes his initial allegation even more explicit by inserting an agent ("you", the suspect) responsible for the actions described in both previous descriptions and specifying the days when these wrongdoings took place (lines 30-33, "you've been banging on the lounge wall, done so on the twenty second, again on the twenty seventh, pushing notes through doors twenty eight, further notes through on the twenty ninth."). In this case, both formulations operate as a device to specify what the allegation consists of and to hinder a further denial or defensive action anticipated by the suspect.

The following extracts are also clear examples of police officers' self-attributed formulations:

#5.8 [PN-27] (breaking a harassment warning)

```
1 PO1:    Ehm:: (0.3) let me try n' word it in a different way (0.8) Ehm:
2         you've obviously gone to the address tonight,
3         (0.5)
4 PO1:    Okay? You knocked on the door.
5         (0.9)
6 PO1:    If you- if you'd basically got someone- (0.4) ehm: >a harassment
7         warning out against someone else< because you're feeling harassed
8         and alarm, distress, (0.5) >and they come knocking at your door<
9         how would you feel?
10        (1.4)
11 S:     (    ) it's a little bit-
12 L:     It's a bi:t ehm: mere speculating [aren't we?
13 PO1:                                     [It is but what I'm- what I'm
14        trying to- wha- (0.6) the position I'm trying to get to he:re is:
15        .hh ehm: he's saying that he's not (0.3) gone to the address (0.7)
16        for any [specific reason.
17 L:             [(    )
18        (0.3)
```

19 L: Sorry?
20 PO1: >He's saying he's not gone to her address for a specific reason,
21 i.e. (0.4) to cause he:r (0.4) any aggro at [all.
22 L: [Yeah.
23 PO1: .hh but what I'm trying to say is: (.) you know (.) .hh ehm: (0.4)
24 she don't know that inside the house.
25 (0.2)
26 PO1: At the end of the day she's looked out of the house and saw-
27 L: And she sees two people.
28 (0.3)
29 PO1: And she sees Joe
30 (0.9)
31 you know .hh and knowing that she's already got a harassment
32 warning out against Joe (0.8) you know obviously that's not going
33 to make her feel good- I mean all these instances here .hh that
34 I've gone down, especially the one where he's put a foot in the
35 door and started touching her (0.4) an:d you know (0.3) ones where
36 he's been banging on the wall.
37 (0.4)
38 PO1: She's obviously felt distressed and alarmed to get the police
39 involved
40 (0.8)
41 PO1: Okay?=
42 L: =<These are you:r words, that is>
43 PO1: No- but what I'm saying- the point I'm trying to get to he:re is=
44 L: =Yeah=
45 PO1: =If she sees Joe outside the hou:se (0.8) okay (0.7) when she's
46 already had a harassment warning taken out by the police (0.5)
47 obviously she's going to be aware that he's in breach of his
48 harassment warning,

In extract #5.8, there are three instances in which the police officer formulates what he has been trying to say to the suspect. The first formulation is in lines 13-16, the second in lines 23-26, and the final one in lines 43/45-48. In terms of their sequential environment, each of them occurs right after a defensive move executed by either the suspect (line 11) or the lawyer (line 12; line 19 and line 42, respectively). They are used to elaborate a position that challenges a particular point in the suspect's version.

#5.9 [PN-122] (assault and arson)

```
1 PO:    You know- d'you know that wood bur:ns,
2        (0.8)
3  S:    Wood burn,
4        (0.4)
5  S:    N[o
6  PO:    [If- if you set fire to wood, what does it do?
7        (1.0)
8  S:    It takes ages to burn though.
9        (0.5)
10 PO:   But you know that it bur:ns .hh what I'm trying to get at (.) is
11       (.)do-.hh d'you think your actions in chucking something that's on
12       fire near to a tree (.) d'you think that that's reckless?
13       (0.2)
14 S:    No the only thing wha- what happened i:s .hh I chu- I didn't
15       chuck it in- like near a tree .hh I chucked it- (        ) on the
16       bar- on- it's like dried up leaves from the tree,=
17 PO:   =Yes.
```

In extract #5.9, one can see the self-attributed formulation in lines 10-12. Similar to the cases previously examined, this formulation is located in a place within the interaction in which there is a dispute or a disagreement about a point regarded as legally relevant (recklessness, which is a form of *mens rea*) for the police to build their case and decide if and how the suspect will be charged.

#5.10 [PN-12b] (abusive and threatening behaviour)

```
1  S:    So it all happened that (0.3) fast and I'd be lying to say (1.3)
2        (        )
3        (0.3)
4  PO1:  >I kno- I know how things happen quickly< you know (0.2)[ehm
5  S:                                                            [Hmm
6        (1.0)
7  PO1:  And I- I totally understand, obviously we go to incidents all
8        the time when things are happening quickly=
9  S:    =Hmm
10       (0.4)
11 PO1:  An' I'm not asking you to say anything that- [that you don't
12       remember
13 S:                                                 [Hmm
14 PO1:  O[r-
```

15 S: [I know that
16 PO1: Or anything that happened so quickly [that]
17 S: [Hmm]
18 PO1: you didn't see:=
19 S: =Hmm
20 PO1: I'm just aski[ng you] if you wanna make any comments
21 S: [Yeah]
22 PO1: >Obviously this is he:r (0.3) version of events
23 (1.3)
24 PO1 You know there's [always
25 S: [Hmm.
26 PO1: two sides to every story, I'm just asking=
27 S: =The name calling is quite possible (.) when you're in a
28 temper you do say- oh, I'll- I'm going to have at her or
29 whatever, you know what I mean?

In extract #5.10 the formulation in line 20 happens in a part of the interaction where the police officer had read a victim's statement to the suspect, to which he responded by saying he could not remember precisely the incident because it all happened too quickly. The police officer then uses the formulation to reconstruct what he was doing, that is, that he was just asking the suspect whether he wanted to make any comments about what the victim had stated.

#5.11 [PN-24] (criminal damage)

1 PC: I know this isn't relevant Joe; I just want to try and establish
2 .hhh if you'd not been dri:nking=
3 S: =Yeah
4 (0.3)
5 PC: Why did ya fail to provide (the driving licence)?
6 (1.4)
7 S: On principle I think
8 (.)
9 S: I[t took the piss
10 PC: [Okay
11 (0.8)
12 S: It did (.) He ni- he arres:ted me=
13 PC: =Right. I'm not here to [take sides Geoff (.) but what I-
14 S: [Yeah, oh yeah, I know
15 PC: >I'm trying to say and I think Joe will agree with me< if- if you
16 hadn't been dri:nking .hh then you bl- and you'd blown in the
17 machine and you hadn't- and you'd be under the limit (.) .hh

```
18        >there's a good possibility you wouldn't be going to court< for
19        fail to provi:de.
```

Finally, in extract #5.11 one can see the self-attributed formulation being used by the police officer in lines 15-19. Once again, it happens in a contentious environment, one in which the suspect and the police officer are disputing whether the suspect had been drinking before committing the criminal damage for which he was arrested.

In each of the six previous extracts, police officers have employed *self-attributed formulations*. These formulations have in common at least two features, one regarding the interactional environment in which they are used, the other concerning the action performed through their use and what is accomplished by this. In these investigative interviews, police officers' self-attributed formulations seem to occur in an interactional environment in which there is a dispute about what really happened and why it happened, that is, in an environment where matters of criminal liability (*actus reus* and *mens rea*) are addressed, and in which there is no agreement between the participants. That lead me to explore what precisely police officers are doing when they put this practice into use in that particular sequential environment. In very broad terms, self-attributed formulations manage to rework a prior version of a description/utterance by transforming and elaborating it. This type of formulation is used by police officers to circumvent or neutralise protective and defensive moves made by the suspect or the lawyer (e.g. denials, disagreements) and to pursue an allegation or develop a specific version of events for a future prosecution. They are applied throughout these interactions as a mechanism for handling and adjusting the nature of the information concerning the incident being investigated.

5.4 Police officers' other-attributed formulations

In the opening of the previous section, I pointed to the fact that formulations could be typified in terms of who are performing them (police officers or suspects) and who they are attributed to (self or other). Even though theoretically there would be four types of formulations, I have not identified any instance in which suspects are formulating what others, i.e. police officers have said. Thus, in my data one can find examples of suspects' self-attributed, police officers' self-attributed and police officers' other-attributed formulations (see table 3, p. 84). I also mentioned that I am focusing largely on the last two types, that is, on the ones performed by police officers, as they represent most of the cases of the collection and

their examination enables one to identify the core institutional activities being conducted by police officers.

I have examined so far cases in which police officers are reworking their previous utterances, i.e. police officers' self-attributed formulations. In doing so, I have been able to identify the interactional environment where this practice occurs and the actions accomplished through its use. In this section, I will now move to analyse instances in which police officers are formulating what the suspects have said or have been saying in the interviews, i.e. police officers' other-attributed formulations. These are not only the most common type of formulations in police interviews; they are also the most germane in determining the criminal offence for which the suspect will be charged – the process of *categorisation* I discussed in the introduction.

A clear and succinct case of this type of formulation is the following example, a fragment from extract #5.1, examined in the previous sections:

(from #5.1)

```
14 PO1:   I think what we're trying to say i:s that obviously what's
15        happened is wrong. And you have no right to [carry on doing what
16 S:                                                 [(    )
17 PO1:   you doing=
18 S:     =Yes I know that.
19        (1.3)
20 PO1:   Okay.
21        (0.5)
22 PO1:   >Have you got anything further to add?<=
23 PO2:   =So you admit the assault then Abigail,
24 S:     Ye:s I do:.
```

In the fragment above, one can see an example of a police officer's other-attributed formulation ("So you admit the assault then Abigail", line 23). As I explained when I first presented the extract, this example suggests that other-attributed formulations done by police officers appear to have some significant features regarding the place in the interaction in which they are employed (*sequence*), what they accomplish (*social action* and *activities*) and how they are designed (*turn-design*). First, it occurs after an agreement, in this case, after the suspect concurred with PO1 about the wrongful nature of her conduct ("Yes I know that" line 18). Second, it is used as a way of committing the suspect to an admission 'on record'. Even though the suspect had agreed about the wrongfulness of her conduct and PO1 seems to have

concluded his task and finished the topic, PO2 needed still to bring her admission to the surface of the talk. He does that by designing his formulation in three steps: 1) prefacing it with 'so' and finishing it with 'then', which suggests that the police officer is inferring something from the previous talk done by the suspect; 2) describing the suspect's latest utterances – particularly the agreement in line 18 - as an admission; 3) describing in legal terms what the suspect was admitting to, that is, naming the criminal offence ("assault").

A similar use of this type of formulation is illustrated in the excerpt below, from a police interview with a young teenage girl arrested on suspicion of assault and arson (criminal damage by fire):

#5.12 [PN-122] (assault and arson)

```
1  PO:    Well Sophie says that as she was do:ing this: (0.5) I'll
2         read from her statement (0.7) eh:: (0.2)
3  S:     I kicked her in the head
4         (0.8)
5  PO:    You kicked her in the head
6         (1.7)
7  PO:    Did you kick her in the head?
8         (0.2)
9  S:     Uhum
10        (0.7)
11 PO:    Ri:ghtio
12        (1.4)
13 PO:    Okay cause Sophie >says that you did kick her in the head but<
14        pri:or to that (.) she says that eh: (0.5) 'upon attempting
15        to esco:rt Katie back to her room (.) she punched me (.)
16        .hh with fo:rce to the chest a:rea
17        (0.3)
18 PO:    .hh this immediately hurt, however I and Andres continued
19        to try and settle Katie down and escort her to her room.
20        (0.3)
21 PO:    .hh this resulted in her punching me in the chest again
22        (0.2)
23 PO:    And I and Andres had to re- (0.2) eh: I and Andres having to
24        restrain her
25        (0.3)
26 PO:    .hh  As we did this, Katie was kicking wildly (.) resulting
27        in her kicking me in the head.
28        (0.8)
```

```
29 PO:    >What d'you have to say about that?<
30        (0.4)
31 S:     That's true
32        (0.2)
33 PO:    That's true is it?
34        (0.6)
35 PO:    .hh Ri:ght
36        (.)
37 PO:    So you're telling me: then (0.5) that you (0.3) assaulted
38        Sophie.
39        (0.5)
40 S:     Yeah.
41        (0.3)
```

The other-attributed formulation, in this case, comes in lines 37-38 ("So you're telling me: then (0.5) that you (0.3) assaulted Sophie") and it shares a few commonalities with the example in extract #5.1. In terms of the interactional environment, it occurs after the suspect had admitted kicking the victim, Sonia, in the head (line 5, "I kicked her in the head"). The admission happens immediately after the police officer had declared he was about to read the victim's statement (lines 1-2, "I'll read from her statement."). After asking the suspect to confirm what she had previously admitted (line 7, "Did you kick her in the head?") and obtaining an affirmative response (line 9, "Uhum"), the police officer goes on to describe what the victim had stated in her testimony to the police (lines 13-27). Her statement contains a description of the incident, including a series of actions performed by the suspect against the victim and her colleague, Andres, who also worked in the orphanage. In addition to kicking her in the head, the victim stated that the suspect punched her with force in the chest area a couple of times while she and Andres were attempting to restrain and escort the teenager back to her room. After reading out that part of the victim's statement, the police officer asks the suspect an open question in order to see what she would say about what has just been described (line 29, ">What d'you have to say about that?<"). The suspect then answers this question to confirm the veracity of the description contained in the statement (line 31, "That's true").

Besides the interactional environment in which it is employed, i.e. following a suspect's utterance that is inferred as an admission, the formulation in extract #5.12, lines 37-38, also resembles the one in extract #5.1 due to its design. Like the previous case, here the police officer prefaces his formulation with the conjunction "so" which suggests the police officer is inferring something from what the suspect has said and conveys a sense that the formulated

version he is about to forge comes from the suspect's own mouth. The police officer then converts the admission of a single action ("I kicked her in the head", line 3) and the confirmation ("That's true, line 31, which validates the series of events and actions described in the victim's statement) into an admission of a criminal offence, namely, assault (" (…) you assaulted Sophie", lines 37-38).

The two extracts above reveal an important function of police officers' other-attributed formulations: these are used to *highlight admissions* and *transform the suspects' accounts* (lay narrative) into some sort of *legally informed material* that is suitable for making a case and usable in court. Even though accounts and narratives/stories are morally rich, their practical implication is only revealed when they acquire *legal imprint*. In extract #5.1, this legal stamp is seen in the words 'admit' and 'assault'. The first one is used to describe what the suspect just said in the interview (what he was doing in the interview) and the second is employed to describe the series of actions narrated, and implicitly admitted, by him throughout the interaction. In extract #12, the legal imprint is seen in the word 'assaulted' and in the clause 'you're telling me', which suggests that the admission comes from the suspect's mouth and therefore can be accepted by courts as lawful evidence.

The following extract is from a police interview in which the suspect had been arrested on suspicion of damaging a car outside his house, just after having an argument with his mother. Up to that point in the interaction, the suspect had admitted having damaged the car window but denied having done it intentionally:

#5.13 [PN-02] (criminal damage to car)

```
1  PO:   Did you do anything else to the car,
2        (0.9)
3  S:    I kicked the side door<
4        (1.0)
5  PO:   ˚You kicked˚ the side door: and remember which side door
6        you kicked?
7        (0.2)
8  S:    >The left<
9        (0.9)
10 PO:   Left front or back?
11       (0.6)
12 S:    Back.
13       (0.8)
14 PO:   ˚Okay˚
15       (1.4)
```

16 Um: what was your intention when you kicked the car
17 (0.6)
18 S: To take my temper out
19 PO: Jus' temper a[gain.
20 S: [Yeah.
21 (1.9)
22 PO: °Okay°
23 (1.0)
24 PO: What d'you think's the possibilities that could happen when
25 you kick a- (0.9) car door.
26 (0.5)
27 S: >Put a dent in it.<
28 (0.5)
29 PO: Put a dent in it.
30 (0.8)
31 PO: Did you consider that before you kicked it,
32 (0.3)
33 S: No:.
34 (0.3)
35 S: I didn't.
36 (0.4)
37 PO: °Didn't.°
38 (1.3)
39 PO: °Okay°
40 (1.9)
41 PO: So you're tellin' me you kicked the car door
42 (0.6)
43 PO: And (0.3) you didn't intend to cause damage
44 (0.8)
45 but you're awa:re that (0.3) by kickin' something you can
46 dent it.
47 S: °Mm°
48 (0.6)
49 PO: And you didn't take that into consideration=
50 S: =(No)
51 (0.2)
52 PO: Right.

After the suspect's initial admission, which happened just before the extract above, the police officer continues by asking a series of questions about the alleged offence. These

questions are about the suspect's criminal liability[49], i.e. *actus reus* and *mens rea*, and are progressively posed to him. From lines 1-14, the police officer manages to get an admission that the suspect had also kicked the left back door of the car, covering the elements of *actus reus* (wrongful act) for criminal damage[50]. After dealing with the first constitutive element of criminal liability, the police officer moves on to deal with the *mens rea* (guilty mind). When asked about his intention when kicking the car, the suspect explains his actions in terms of 'temper' (line 18), implicitly denying having done it with the intention of damaging someone else's property. After failing to establish *mens rea* in its main form (intention), the police officer designs his following two questions (lines 24-25 and 31) in order to find out whether the suspect had acted recklessly (a milder form of *mens rea*).

The police officer then proceeds to formulate the suspect's previous answers (lines 41-49). By prefacing the formulation with 'so' - a word which conveys an inference - and the clause 'you're telling me', the police officer casts it as the suspect's own words. However, there are a few changes between the original versions and the ones formulated by the police officer. The table below displays the original answers and the formulated version constructed by the police officer:

Table 4: Original descriptions and formulated versions

Original answers/descriptions	Formulated versions
I kicked the side door	You kicked the car door
To take my temper out	You didn't intend to cause damage
Put a dent in it	You're aware that by kicking something you can dent it
No, I didn't	You didn't take that into consideration

As can be seen from the table above, the formulation is composed of four descriptive parts, i.e. formulated versions; the first one concerning *actus reus* and the others concerning *mens rea*. Each of these parts refers to the answers provided by the suspect in the sequence of questions immediately prior to that point of the interaction. Rather than just being copies of the previous answers, these parts reveal the *preservative* and *transformative* properties of

[49] For more information on criminal liability, including the definition of *actus reus* and *mens rea*, see Chapter 2, section 2.1.

[50] According to the statutory definition of criminal damage, the elements that constitute its *actus reus* are as follows: a) destroying or damaging; b) property; c) belonging to another person. (Legislation.gov.uk, 2017).

formulations[51]. In this case, the police officer preserves the utterance that establishes that the suspect kicked the car door (the wrongful act), whilst transforming the other utterances; for example, the answer "to take my temper out" (line 18) is remodelled as a denial about the intention of causing damage (line 43). When assembled together, these elements are sufficient for the police to charge the suspect with criminal damage and for the Crown Prosecution Service (CPS) to proceed to a prosecution.

The following extract shows a similar use of other-attributed formulations and it is the continuation of extract #5.12:

#5.14 [PN-122] (assault and arson)

```
1  PO:    °Ri:ght° .hh why did you do that?
2         (1.8)
3  S:     Because I wanted to:
4         (0.2)
5  PO:    Because you wanted to
6         (0.6)
7  S:     I just wanted her to get o:ff me:
8         (0.9)
9  PO:    °Ri:ght°=
10 S:     =Hm
11        (1.4)
12 PO:    .hh the eh:- (3.9) so (0.5) you punched and you kicked Sophie
13        cause you wanted her to get off you=
14 S:     =Yeah
15        (0.4)
16 PO:    Ri:ght
17        (0.6)
18 PO:    .hh d'you think that that's a::- (0.6) an acceptable thing
19        to do,
20        (0.3)
21 S:     No, not really
22        (0.4)
23 PO:    Not rea:lly
24        (0.7)
25 S:     (Coughing)
26 PO:    So:-
```

[51] According to Heritage & Watson (1979), formulations can preserve relevant features of previous utterances whilst also reworking them; thus they have three fundamental properties: preservation, deletion and transformation.

```
27          (0.6)
28 S:       (Coughing)
29 PO:      So you accept that what you did was wrong.
30 S:       Ye:ah
```

Extracts #5.13 and #5.14 show that police officers' other-attributed formulations can be used to supplement a sequence of questions. Compared to these questions, these formulations have an advantage when pursuing information: they offer the suspects' own words back to them. This practice helps the police officer to align with a normative assumption that says that the relevant information of the case should come from the suspect's own mouth. In case #5.13, for example, this is done explicitly through the design of the formulation, i.e. "So you're telling me…". This interactional device, i.e. formulating the suspect's previous utterances, conceals the non-neutrality of police officers' descriptions and helps them to highlight an admission and to underline also the elements of criminal liability by assembling modified pieces of a narrative. These formulated versions are not neutral; they do not just summarise what has been said; they are rather tendentious versions as they offer candidate readings of what the suspect has said. Particularly in the case of investigative interviews with suspects, other-attributed formulations are "a means by which lay accounts are transformed into evidentially valuable objects" (Macleod, 2010, p. 157). It converts lay stories, narratives and information, into legally informed material, e.g. evidence (Johnson, 2008). As such, it turns out to be a key practice enabling police officers to perform their job of questioning suspects and highlighting their *admissions* as if these were solely produced by them, i.e. by suspects).

Even though the examples examined so far suggest that this practice is used mainly to highlight what police officers perceive as admissions, it can also be employed in cases in which they formulate as *denials* what the suspects had said. The following the extracts are clear cases of this practice:

#5.15 [PN-21] (breaching bail conditions)

```
1  S:     I'm not gon- I've been breached on my bail conditions twice yeah?
3         (0.7)
4         The judge says to me .hh you breach it again you'll be coming up
5         court towards me d'you think I'm going to brea:ch?
6         (1.1)
7         You know, lo:- lose everything what I've got? No, I doubt it
8         (1.4)
9  PO1:   Right so you deny breaching your ba[il conditions on Sunday the=
```

10 S: [Yeah I- I do.
11 PO1: =thirtieth of May
12 S: On both dates, yeah.
13 (0.2)
14 S: [Deny
15 PO1: [And Tuesday the first of June [two thousand five?
16 S: [Hmm
17 (0.5)
18 S: Yeah
19 (1.1)
20 PO1: Okay and we'll cease the interview at seventeen forty hours

#5.16 [PN-13] (abusive and threatening behaviour)

1 PO1: An' basically (0.4) just to clarify what we've said t- (.) here
2 in this interview
3 (0.3)
4 PO1: .hhh hh if I can remember.
5 (2.1)
6 PO1: I don't intend to ehm: (0.3) ask you too much more >I haven't
7 written anything so I'm going to have to try and clarify it on
8 ehm: out my head<.
9 (0.8)
10 PO1: Ehm:: (1.6) <the initial assault> (0.6) on: (0.4) Allie or
11 Allegra >or whatever her name is< (0.5) You eh: (1.3) you say
12 that you had no:-
13 (0.4)
14 S: I never [insulted her.]
15 PO1: [You had nothing to] do with- (.) you never- you
16 deny the assault (.) saying that you were the peacekeeper=
17 S: =One hundred per cent.
18 (0.2)
19 I- I went in (1.0) to take her off.

The other-attributed formulations in extracts #5.15 and #5.16 have several aspects in common. First, in respect to the stage of the interaction where they occur, they are both used towards the very end of the interview, when the police officers transform the suspects' accounts into something that is legally informed and can be put into the record. As I discussed previously, police officers have to give a legal imprint to the lay narratives provided by the suspects throughout these interviews in order to decide whether and how to charge them.

Second, in both cases, the original accounts are formulated as denials of the wrongdoings, that is, breaching the bail conditions and assault, respectively.

Besides these similarities, the formulations in these extracts differ regarding their sequential position and design. In extract #5.15, the formulated version ("So you deny breaching your bail conditions on the thirtieth of May", lines 9 and 11) comes right after an account given by the suspect. In his account, the suspect does not explicitly deny the wrongdoing for which he was arrested; instead, he provides reasons why he would not have done such a thing (the judge said he would have to go to court if he breaks the conditions again, and he could 'lose everything' he got). By doing so, the inference, i.e. that he was denying having broken the bail conditions, is left to the police officer to make, which he does through the formulation in lines 9 and 11. In extract #5.16, the formulated version does not come straight after the suspect's account. In fact, it comes subsequently to a series of turns in which the police officer is announcing ("and basically just to clarify what we've said t- here in the interview", lines 1-2) and justifying ("I haven't written anything so I'm going to have to try and clarify it") what he is about to do. Also, he does not formulate the suspect's account as a denial from the start. He does so after self-correcting his formulation twice; first from "you say that you had nothing to do with-" (lines 11-12) to "you never-" (line 15) and then finally to "you deny the assault saying that you were the peacekeeper" (lines 15-16). These self-corrections expose the work that the police officer is doing to design the formulation and thus to convey more effectively what he is aiming to convey (Drew, 2013); they transform an implicit denial into an explicit one.

In all cases examined so far, the formulated versions constructed by the police officer were not challenged. All were accepted and confirmed by the suspect right after they had been proposed. For instance, in extract #5.15 the confirmation comes in line 10 ("Yes I do") even before the police officer had finished his turn; in #5.16 the acceptance appears in line 17 ("One hundred per cent.") immediately after the formulation. I shall now analyse what seems to be a deviant case. It involves a young man (suspect) who had been given a harassment warning which prohibited him from contacting or interfering with his ex-girlfriend (victim). The man was arrested on suspicion of breaking the warning due to knocking on her door at that night. Although he admitted having gone to the flat, he claimed that he was just accompanying his friend who went there to ask the girl a favour, i.e. to get a saucepan to cook bacon. The following extract appears at the very end of the interview, when the police officer attempts to summarise what has been said in order to put it on record and decide whether and how to charge the suspect:

#5.17 [PN-27] (breaking harassment warning)

```
1  PO1:   Right hh I'll just (.) quickly summarise up then (1.0) you
2         deny the- (0.9) >well< (0.5).hh you've admitted all the
3         offences (.) leading up to hh
4  S:     °Yeah°
5         (0.3)
6  PO1:   The first harassment warning being taken out (  ).hh erm
7         however they weren't offences then. (0.2) .hh >Obviously
8         you've just gone round to the address and-< (0.9) in some
9         (0.4) instances maybe caused a nuisance of yourself,
10        (0.4)
11 PO1:   okay?
10        (0.7)
11 PO1:   Uh:m (.) you've admitted to being at the address tonight=
12 S:     =°Yeah°
13        (0.2)
14 PO1:   You've admitted to bei:ng (0.3) knocking on the door once=
15 S:     =Uhm
16 PO1:   However (0.4) you're saying (that) (0.2) you've gone round
17        there (.) for a friend.
18        (1.1)
19 PO1:   Okay?
20        (1.3)
21 PO1:   Yeah?
22        (0.4)
```

It should be clear by this point that formulations in talk-in-interaction have a general function of *summarising* what has been said. Although in most of the examples presented so far this property may not have been explicit, here in extract #5.17 the police officer begins his formulation by making rather overt the fact he will summarise the talk so far ("I'll just quickly summarise up then", line 1). By labelling his action as 'summarising', he suggests that what he is about to say has already been made available by the suspect throughout the interaction, and that therefore, the police officer is not creating anything new, he is just restating what the suspect himself already said. Also, by qualifying it as 'just' and 'quickly', he highlights the ordinary and untroubled aspects of the task and disguises its *transformative* and *moral* dimensions.

The transformative feature of the formulated versions becomes more visible when the police officer labels the actions performed by the suspect. Rather than using the format 'so

you're telling/saying you did X' (see extracts #5.12 and #5.13), he designs his next turn by overtly describing the suspect's action as a denial ("you deny the-", lines 1-2), before cutting it off and correcting it in a way that the actions were then described as admissions ("You've admitted all the offences leading up to (…)"; "you've admitted to being at the address tonight"; "You've admitted to being knocking on the door once", lines 2-3, 11 and 14, respectively). Whereas each of the two first parts of the formulation are followed by agreements (a quiet 'yeah' in each case, lines 4 and 12), the third one is immediately succeeded by a rather ambiguous token that does not sound neither as an agreement nor a disagreement ('Uhm', line 15).

These initial turns prepare the ground for what the police officer had started doing in lines 1 and 2, when he was about to formulate – and hence summarise – the suspect's version of the story as a denial of the offence. Instead of doing so, the police officer cuts it off and corrects himself with a series of descriptions which referred to the actions to which the suspect had admitted. However, instead of explicitly formulating the suspect's version as a denial of the offence, the police officer opts for building a more neutral description, one in which the denial is implied in the account (or reason) given by the suspect for having carried out the actions he had previously admitted to ("However you're saying that you've gone round there for a friend", lines 16-17). The formulation is constructed in a way that implicitly suggests that the suspect is denying that he has performed the action with some sort of malicious intention. The police officer's other-attributed formulation implies that the suspect is not denying the actions, he is merely denying having the 'guilty mind', i.e. the intentionality ascribed to these actions. The issue is that the same action can be labelled in multiple ways and each of these will have different *moral* and *legal* implications, e.g. different levels of intentionality are often associated to how serious the wrongdoing is perceived and treated by the criminal justice institutions.

In contrast to what occurred in the previous cases in this section, the formulated version in extract #5.17 is *not* followed by an agreement. Instead, it is succeeded by a long gap (line 18), a further attempt to call for confirmation ("Okay?", line 19), another long gap (lines 20) and then an extra attempt to call for confirmation ("Yeah?", line 21). After not being able to get a positive or negative acknowledgement from the suspect, the police officer constructs his next turn by giving the suspect the chance to decide how he wanted to summarise his own actions, which then triggers a negotiation between him (police officer) and the lawyer about what would be the correct way to describe and summarise the suspect's version. This is seen in the extract below:

#5.18 [PN-27] (breaking harassment warning)

1 PO1: I mean how do you want to sum it up?
2 (0.7)
3 PO1: [Are you- is that-]
4 L: [( )] but that's not in the recap isn't it?
5 (0.2)
6 L: It say[s ( )
7 PO1: [What I'm saying is- is that- (.) a- do you want that
8 to go down as a denial of the offence o:r (.) .hh is he
9 ad[mitting the offence]
10 L: [I mean he- he's] given his account. I mean you know that
11 erm=
12 PO1: =I know and what I'm saying is- you know is ehm- do you want
13 that to be taken as a denial of the offence
14 (0.5)
15 L: We:ll [he doesn't- he- he has-
16 PO1: [or either admit to the offence?
17 L: Yes. He has (really no idea) (0.2) why he: (.) accompanied this
18 other guy,
19 (0.4)
20 L: °Okay°?
21 (0.4)
22 L: And I think that's where he would leave ( ) you know,
23 (0.5)
24 L: Admitting, denying, all that but he had just given his account
25 as to exactly what happened.
26 (0.3)
27 PO1: Right.=
28 L: =So if you can investigate into the matter and then take it
29 from there=
30 PO1: Okay.hh
31 (0.9)
32 PO1: What I'm- what I'm trying to get here (0.3) >obviously:< (.)
33 you know the score, we go out there an:d we talk it all
34 through (0.3) and we get a denial or admittance of the offence,
35 L: [Yeah, not necessarily ( )
36 PO1: [( ) I know the harassment one is a difficult one to
37 do cause it's- (0.2) you know it's-
38 L: >Well I mean-< you know- you say that he has:- he's been given
39 a warning on the 31st
40 (0.4)

```
41 PO1:   [Yeah.
42 L:     [You know and all that and then he says (  ) that happened
43        tonight,
44        (0.7)
45 L:     So I mean ehm let's leave it there erm I mean what more?
```

The extract above (#5.18) occurs immediately after #5.17. The first noticeable aspect of this excerpt is that there is a dispute between the police officer and the lawyer about how the interview should be summarised, that is, whether the suspect had admitted to or denied the wrongdoing attributed to him (breaking the harassment warning, which prohibited him from contacting or interfering with his former girlfriend). PO1 begins this extract by asking the suspect how he wanted to sum the interview up (line 1), to which he did not get a response. The lawyer then jumps in, but he also did not provide a response which is treated as satisfactory as one can see by PO1's use of a self-attributed formulation ("What I'm saying is", line 7). In this turn, PO1 redesigns his questions by restricting the range of appropriate answers; instead of asking 'how' the suspect and the lawyer wanted to sum the interview up, he gives them two options: denial or admission of the offence ("do you want that to go down as an admission of the offence or is he admitting the offence", lines 7-9). The lawyer again jumps in, this time even before the police officer finishes his turn (see the overlap line 8) and proposed a different alternative to describe what his client (suspect) had done throughout the interview: he did not deny nor admit the offence, but he had rather "given his account" (line 10). In response, PO1 acknowledges that the suspect had given his account, but insists on the fact that this is not an appropriate or sufficient of characterising S's actions ("what I'm saying is- (…) do you want that to be taken as a denial of the offence or either admit to the offence?", lines 12-13 and 16). The lawyer insists in characterising the suspect's actions as giving a precise account of the events (lines 24-25), but PO1 still treats this characterisation as inappropriate and designs a formulated version of what he was trying do say ("What I'm trying to get here", line 32). This time, he refers to the fact that the lawyer also has the professional knowledge ("you know the score", line 33) about the institutional proceedings, that is, he knows that officers will listen to the suspect's account about what happened and then they have to characterise these accounts as admissions or denials in relation to what the suspects are being 'accused' of. In other words, interviewing a suspect is not only hearing a narrative and leaving it as if it was self-sufficient; instead, officers need to select particular parts of these stories and give legal imprint to them, for example, by transforming parts of these accounts into admissions or denials.

These two extracts (#5.17 and #5.18) show how describing or labelling actions is not an innocent or a neutral task. At first, one would think that there are only two legally relevant options to characterise what the suspect has said: 'admitting' or 'denying'. These are the options offered by the police officer in most of their other-attributed formulations, including the ones in the case above. What the lawyer does is to reframe this formulation by using what would be a third option, i.e. 'accounting'. He shows that instead of a binary categorisation, the universe of ways of describing what the suspect is doing in a police interview is wider than the officer suggests. By doing so, one begins to see how admitting and denying are not the suspects' categories. In none of the extracts presented in this chapter, suspects refer to what they are doing in those terms. These are categories of the setting, ones which the police officers (the expert/professional) is ingeniously imposing on the story/narrative/account provided by the suspect. They are action ascriptions which are comprehensible within the setting and are used to accomplish an institutional task, that is, to transform a lay narrative into material which is legally intelligible.

5.5 Conclusion

In this chapter, I have focused on a particular practice employed by speakers while interacting: formulation. First, I summarised how my interest in this practice arose from my difficulty in categorising the crimes for which the suspects were arrested and their respective defence. I noticed that there were some interactional moments in which this effort to categorise what the suspect had done was crystal clear. These were moments when the participants recast what someone had previously said, i.e. interactional episodes in which they were formulating talk. Second, I outlined the main definitions of formulations and explicated which of these I would be adopting for the entire chapter. Formulation is a practice through which participants made available their sense of the talk. They are used across several different institutional settings, from medical consultations to news interviews. Their relevance had to do with their capacity for revealing the main activities performed by participants in specific contexts. In the case of investigative interviews in England, I noticed that formulations are used both by police officers and suspects. Due to their pervasiveness and their significance in the process of categorising criminal offences and building up a case for a potential prosecution, I decided to focus on police officers' formulations, which could be divided into self-attributed and other-attributed.

Police officers' self-attributed formulations often occur in a particular interactional environment: moments in the interaction when issues of criminal liability are being addressed and there is some sort of disagreement between police officers, suspects and lawyers. They enable police officers to rework their prior utterances either transforming or elaborating on them. Their functions are to dodge protective and defensive moves performed by the suspects and to pursue an allegation or to develop a specific version of events for a potential prosecution.

Most of the formulations in my data though, were police officers' other attributed constructions, that is, cases in which the police officers were reformulating something that had been said by the suspect. These formulations have several functions: a) to transform the suspects' lay narratives and accounts into legal material; b) to convey the sense that what has been said is coming from the suspect's mouth; c) to highlight admissions and denials; d) to put these admissions and denials on record.

I showed that in almost all the cases in my dataset, these other-attributed formulations are not challenged or disputed, which suggests that these are powerful institutional devices. I then examined what appeared to be a deviant case, one in which the formulation is challenged by the lawyer. By not accepting the formulation, the lawyer initiates a negotiation that displays how labelling and categorising work in police interviews. Furthermore, that episode reveals and highlights the main function of these formulations - their capacity to convert lay accounts into legally relevant material.

Formulations are employed as a mechanism to rework prior descriptions/utterances by transforming and elaborating them and highlighting their legal relevance. It constitutes a practice through which police officers manage to label or categorise the suspects' actions within the interview (e.g. denying, admitting, saying, telling, etc.) and the nature of the incidents which are the topic in the interview (e.g. assault, breach of harassment warning, criminal damage, arson). Formulation then is an interactional practice through which key *moral work* is accomplished in police interviews with suspects in England.

Chapter 6

Portraying an event as an accident

6.1 Introduction

A disturbing case recently attracted the attention of the British media, one concerning the murder of a 16-year-old girl from Bristol, Becky Watts, by her stepbrother, Nathan Mathews, aided by his girlfriend, Shauna Hoare. After being arrested on suspicion of having murdered his stepsister, Nathan, accompanied by Shauna, was brought to a police station, where both were interviewed by police officers about the incident. At that time, Becky's dismembered body had been found in a house in Bristol and Nathan and Shauna were viewed by the police as the main suspects of that crime. During his interview in the police station, Nathan was asked about what happened. His version was that he had planned to kidnap and scare the teenager but that his plan had gone wrong. He claimed that he decided to scare her in order to make her more appreciative of life and of other people, particularly since she had been behaving badly towards his disabled mother, doing things such as leaving objects on the floor to make her trip over. According to him, he went to Becky's room using a mask, but he panicked once the mask slipped and she could see his face. In the end, he admitted having killed her, but characterised the incident as a 'terrible accident' and stated his girlfriend had no part in it.

In September 2015, the prosecution presented a quite different version in court, according to which the defendants operated in collaboration with one another and the crime was sexually motivated. The police found that he had been accessing multiple pornographic websites and watching various kinds of pornographic videos, including some in which the actresses dressed like schoolgirls. The investigators had also discovered several intimate messages exchanged between him and his girlfriend in which they discussed kidnapping a petite girl.[52]

This case displays a number of interesting issues: first, it demonstrates that there are alternative or competing accounts of what actually happened and why that happened, and each of these accounts supports a different version of how and why the incident occurred. Second,

[52] Nathan Matthews was found guilty of murder and sentenced to at least 33 years in jail, whereas Shauna Hoare will serve 17 years in prison for manslaughter. For more information about Becky Watts's case, see *The Guardian*, 12th September 2015. Retrieved from http://www.theguardian.com/uk-news/2015/nov/11/becky-watts-stepbrother-nathan-matthews-guilty-murder

in events related to deviant actions and identities, people will try to defend themselves by contesting or deflecting accusations, suspicions, etc.; and third, portraying the incident as an accident is one such defensive strategy used by suspects to contest the attribution of intentionality to their actions.

In this chapter, I will explore these issues in the context of police interviews with suspects in England, focusing especially on the matter of how a suspect constructs the potential criminal offence as having arisen from an accident.

6.2 Building versions and defensive strategies

Police interviews are encounters in which police officers question suspects, victims and witnesses about incidents that are legally relevant and prima facie unlawful. In all police interviews with suspects in England and Wales, there is a preliminary part in which all those in the interview room are required to identify themselves, and the police officer cautions the suspect under the terms of PACE[53] rules and its accompanying codes of practice[54]. Subsequently, the police officer asks the suspect about 'what happened', a question that arranges the sequence and the content of the more detailed ones that follow the initial enquiry. Also, police interviews with suspects can best be understood as collaborative work managed by the participants, e.g. police officers, suspect, lawyer and any other person present in the interrogation room. However, by collaboration, I do not mean they will agree about every detail of what happened; police officers and suspect will sometimes, indeed generally characterise and represent the episode in different ways, building alternative or contrasting versions of it (Drew, 1992; Pollner, 1987)

Conducting an interview is just one part of a larger investigation that consists of obtaining statements from the victims and the witnesses, analysing the suspect's criminal record, accessing CCTV footage, etc. Therefore, interviewing a suspect involves not only obtaining an account from him or her about what happened, but also putting to him/her the evidence gathered previously in order to evaluate, challenge and negotiate that account. Similarly, by providing an account of what happened, the suspect is not only describing the incident, but also defending himself from accusations which he/she anticipates are likely to

[53] The Police and Criminal Evidence Act, 1984.

[54] These codes of practices regulate police powers and protect public rights. Code C establishes the requirements for the detention, treatment and questioning of suspects in police custody by police officers; and Code E concerns the audio recording procedure of interviews with suspects in the police station.

appear during the course of the interview. Thus, defensive strategies and accounting practices are essential phenomena for understanding law-in-action.

Sociologists have been aware of the importance of accounts since the late 1960's, when more attention began to be given to talk, considering it as a fundamental and constitutive material of social life (Garfinkel, 1967; Sacks, 1992). Scott and Lyman defined an account as "a linguistic device employed whenever an action is subjected to valuative inquiry. (…) a statement made by a social actor to explain unanticipated or untoward behaviour." (Scott & Lyman, 1968, p. 46). Drawing upon Austin's ideas in the essay 'A Plea for Excuses' (Austin, 1979), Scott and Lyman distinguished between two types of accounts: excuses and justifications, the latter being an account in which the person accepts responsibility for the incident but denies its pejorative quality, arguing that it was the correct or right thing to do in the circumstances; whilst in the former the speaker admits the wrongdoing but seeks to mitigate or deny responsibility for that misconduct.

Although that distinction appears to make sense on an abstract level, Emerson (1969) suggests that "it fails to describe accurately the actual use of justifications and excuses in the juvenile court", as in these concrete episodes of employing defensive strategies, "to deny responsibility represents a partial claim that the act was not "really" wrong" (1969, p. 143). According to him, when someone claims that the incident was an accident, for instance, he is not only denying or mitigating responsibility, but also characterising the episode as something other than wrong. Hence, that distinction operates accurately only at a theoretical level and it does not clearly capture what the participants are actually doing while they are employing their defensive strategies within a legal setting.

Finally, even though the term 'account' has been largely used in sociology, I will prefer to adopt the expression 'defensive strategies'. There are two main reasons for doing so: 1) in legal settings such as courtrooms or police interviews, suspects usually defend themselves by using multiple strategies or techniques; 2) these components are mainly descriptive resources, rather than being explicitly formulated as motives or reasons for having acted in a certain way (Atkinson & Drew, 1979, p. 140). Hence, multiple defensive strategies may be employed by a suspect during a police interview and here I will focus on one in particular: portraying an event as an accident.

6.3 Portraying an event as an accident

As I indicated in the previous section, building a defence in which an incident is characterised as an accident (i.e. having been accidental in character, or having resulted accidentally from some circumstances that perhaps might not have been anticipated) is not the privilege of high-profile cases. Even in more mundane and quotidian cases, a suspect might opt to construct a version in which the episode has arisen from an accident. But what are the ways by which someone could account for having done it accidentally? In order to exhibit some of the methods used by suspects to do so, I have chosen three police interviews from my corpus, which represent the kinds of claims made in my data.

The following extract is taken from early in an interview between two police officers and an 83-year old man suspected of having exposed his genitalia to a girl who lives next door to him.

#6.1 [PN-64a]

```
1  PO1:   .hh <Okay>(0.2)<what I'm gonna do is th->I'm not gonna beat
2         around the bush (0.5) er (.) I wan- I wanna go straight to
3         the point (0.6) okay (1.2) Have you today (0.8) at any time
4         (0.6) exposed your penis (0.5) to the girl (0.3) who lives
5         next door to you,
6         (0.8)
7  S:     Have I spoke to h[er?
8  PO1:                     [Exposed your penis (.) to the girl [who
9  S:                                                           [yeah
10 PO1:   lives next door.
11 S:     Oh yes (.) I have (.) yes=
12 PO1:   =You have,
13 S:     Ye:s (1.2) but it was accidentally it wasn't done intentional.
14        (0.9)
15 PO1:   Right.
```

In this extract, the suspect is asked whether he had showed his penis to a young woman who lives next door to him. Although at first, he seems not to have heard/understood the question ("Have I spoke to her?", line 7), he replied positively ("Oh yes (.) I have (.) yes", line 11) when the police officer repeats the part of the utterance regarding the action supposedly committed by him ("Exposed your penis (.) to the girl who lives next door.", line 8). The police officer then formulates the suspect's answer, expressing some surprise, which is indicated by

the intonation at the end of the utterance ("=You have,", line 12). The suspect subsequently confirms the exposure, but defends himself by saying it was accidental and it was not done intentionally (line 13).

Similar to the Becky Watts' case, this short extract shows that one defensive technique available to the suspect is to claim that the incident was an accident, a claim that is made straightforwardly, right after admitting having done the action the police asked you about, using a kind of formula "I did it, but it was an accident". However, this is not the only way in which a suspect may indicate that an apparent transgression was an accident. As I will go on to show, there are cases in which the suspect does not say *explicitly* that the event was or has arisen from an accident but rather leaves it to the police officer to infer the putatively accidental nature of the event or incident.

What then are the dimensions that underlie the understandability of these defence strategies through which suspects represent apparently untoward conduct as having been innocent? What are the properties of talk that enable the police officers, as members, to hear a particular description as a portrayal of an event/incident as an accident? In the following sections, I will present each one of these analytical properties or dimensions, identified through an analysis of two other police interviews.

6.4 The description of the action

The following extract[55] is taken from an interview in which two police officers (PO1 and PO2) question a teenage girl (S) who has been arrested under suspicion of having assaulted[56] another girl on the way home from school.

#6.2 [PN-03]

```
1  PO1:  >So if you can cast your< mi:nd back (.) to eh: Tuesday the twenty
2        seventh of January when the assault happened .hhh on Maureen
3        Ball >an' tell me in your own words< and as best you ca:n (0.4)
4        ehm: exactly what happened (0.3) during that day y'know on the
```

[55] All names shown here are pseudonyms, as I explained in Chapter 3.

[56] Although the Criminal Justice Act 1988 does not provide a legal definition of 'common assault', this offence is determined by reference to case law and it may be understood as any act by which a person intentionally or recklessly causes another to apprehend immediate unlawful violence. Intentionality then plays a big role within police interviews concerning 'assault' as it constitutes one of the points the police and the Crown Prosecution Service (CPS) have to prove in order to charge and prosecute the suspect, respectively. Hence, claiming that the episode has been originated by an accident constitutes an attempt to mitigate this point and to reduce the chances of the suspect being charged and prosecuted.

afternoon and what happened on the way home from schoo:l
(0.8)
S: °Okay° (0.6) Mmm what happened is mmm (0.5) school had finished
(0.5) and I was going to go town (0.4) with one of my friends but
I hadn't caught up with her because she (0.3) went ahead to catch
the bus.
(0.7)
S: And I was runni:ng,
(0.2)
S: a:nd I spilt some- (0.5) I spilt some pop over Maureen:, and then
she turned around and pushed me.
(0.4)
And went to punch me. And then, (0.4) I just remember, I think
(0.3) I- (.) slapped her
(0.2)
S: or punched her first,
(0.2)
and then (1.0) we just started fighti:ng,
(.)
we jus- she was just grabbing on to me and I was jus- I was just
hitting her.
(.)
I can't really remember because it like was, I was like really
angry but mmm, basically just fighting really. And erm, that was
it really.

Following Austin's (1979) suggestion, the event as a whole could be described using an overall verb such as 'assault', which seems to characterise everything that went on during a spate of time as a single activity. However, that apparent single piece of conduct is actually composed of a multitude of constituents or bits of actions. For instance, as one can see from the extract above, the potential transgression is comprised of at least four main components: i) running to catch a bus, ii) spilling something on someone – an action which might have initiated the incident, iii) that someone turning and pushing, and iv) retaliation ('slapped or punched her first') in anticipation. Each of these components consists of a number of other components. One can then deconstruct or dismantle the "machinery of the act, and describe (and excuse) separately the intelligence, the appreciation, the planning, the decision, the execution and so forth" (Austin, 1979, p. 201). By doing so, one can meticulously analyse, step by step, how

suspects build their versions, especially in terms of the descriptive resources used to portray their innocence.

Thus, the first property to observe is related to the *description of the action* selected by the suspect to depict each part of the episode. As one can see from extract #6.2 above, by putting together that she was running and [thereby] spilt some liquid on someone, the suspect did not explicitly give her conduct in the scene an accidental character; up to that moment, it was up to the police officers to draw that inference from the suspect's description of the series of actions that might have initiated the incident. However, that description has been sufficient for the police officer herself to infer that the suspect might have tripped before spilling the liquid as she had been running, as one can see in extract #6.3 below.

The key point to understand how this inference is achieved is in the description "and I was runni:ng" (line 12). Different from other parts of her description, 'and I was running' is an action-in-a-sequence (e.g. first I was walking, then I was running, then I was walking again) but in an adverbial manner, that is, in a way in which to describe or characterise another action, in this case, spilling ("an:d I spilt some…", line 14). The accidental character of the event, although not explicit, is still quite present; in other words, it is embedded in the description constructed by the suspect rather than exposed as in extract #6.1.

#6.3 [PN-03]

```
1  PO1:   An' how did you trip then?  Wh- wh- how- what caused you to trip?
2         (0.7)
3  S:     .hh cause there's: there's li::ke (1.3) there's a ke:rb and then
4         it's the Holiday Inn entrance
5         (0.5)
6         And that's like basically where it all happened.
7         (0.5)
8         Where like the cars come in and that, and I was just
9         running, >and buckled a bit, and it tripped and it spilled on
10        her< and it spilled on me al:so.  And I was just like hhh sorry
11        and she just turned around and pushed me and I said oh why did ya
12        do that for °an' whatever°
```

Although PO1 has inferred the relation between running and spilling soft drink on someone, in extract 6.3, she attempts to expose – and most likely challenge afterwards - the accidental character of the suspect's action by asking what had caused her to trip ("what caused you to trip?", line 1). In so doing, the police officer pursues a different answer from that initially

proposed by the suspect. The suspect should not only describe the actions which took place i.e. running to catch the bus and spilling soft drink on someone, but that also establishes a causal relation between these actions.

Looking again at extract #6.2, one can observe that after building a description of a series of pieces of conduct which form the potential transgression, the suspect characterises the upshot of his conduct as 'fighting' ("we just started fighti:ng", line 22, extract #6.2), which implies the incident involved two people and it was more or less symmetrical. This account is supported by the use of the pronoun 'we' as the actor-agent and by the subsequent descriptions she builds about the details of the fight, where the supposed victim was actually "grabbing on to her", whilst she was "just hitting on her" (lines 24-25, extract 6.2). Her *action description*, thus, minimises her responsibility because her actions are subsumed within a fight – in a fight the responsibility is shared among and between 'the fighters'.

We have seen the suspect's version of the alleged transgression. But how do the police officers respond to that within the interview? Do they simply accept it, or do they challenge it? If it is the case that the police officers do challenge that version, how do they ask questions that imply and begin to construct an alternative or contrasting version in order to evaluate the one provided by the suspect? In contrast to the suspect, who is involved in a potential criminal incident and whose agenda involves giving an account of what happened and building a defence strategy, the police officers are institutional members whose task is to investigate 'what really happened' – or 'the truth' – and decide whether they will charge the suspect or not, based on their evaluation of the evidence.

The following extract is taken from the end of the first half of this interview, beginning with the first question asked in this interview by the second police officer (PO2).

#6.4 [PN-03]

1	PO2:	=You're saying (0.3) the incident started because you tripped and
2		you spilled some pop
3	S:	Mm=
4	PO2:	=Righ'. We've seen the top that Maureen was wearing
5		(0.2)
6	PO2:	And I would say that that hasn't been caused by someone tripping.
7		(0.6)
8	S:	M[mm.
9	PO2:	[It's been thrown at somebody
10		(.)
11	PO2:	There's too much juice

12 (0.2)
13 Or too much whatever it is on her top, that we've still got
14 (0.8)
15 PO2: To coincide with someone tri[ppin
16 S: [Mm
17 PO2: And doing that? hh (I-) the whole top is ruined.
18 (0.6)
19 PO2: It's all stained. An it's stained with a brown liquid I think
20 might be tea or coffee or some (0.6) some hot drink.

The first point to notice here is how the police officer (PO2) builds a contrasting version of the episode that challenges the description – and implicit explanations - the suspect has given about how the incident had begun. He introduces that version by formulating (see the previous chapter) the suspect's prior account ("=You're saying…", lines 1-2). This device works by restating some particular pieces or items from the suspect's version ("the incident started because you tripped and spilled some pop", lines 1-2) and introducing some first-hand knowledge about the consequences of the event ("We've seen the top that Maureen was wearing", line 4), pointing towards an inconsistency between the suspect's claim and some physical evidence ("And I would say that that hasn't been caused by someone tripping", line 6). Although an explanation for why something happened could be scientific and the explanation for why you're the one to blame could be legal, the description here is one that is just shared commonsense knowledge. In terms of identity, PO2 does not seem to be talking as a policeman with special technical or expert knowledge; it is not that he knows about fibres or cloths; he is just looking at someone's clothes as 'anyone' would and reaching a conclusion which relies on mundane reasoning practices (Pollner, 1987).

Moreover, by saying "it's been thrown at somebody" (line 9), the police officer characterises the scene in a contrastive way compared to that offered by the suspect. Whereas 'spilling', especially if preceded by 'tripping', implies an accidental character of the scene, 'throwing' conveys some degree of intentionality on it, which, as I noted previously, turns out to be one of the points the police have to prove to charge the suspect with an assault. Being an impersonal construction (Pomerantz, 1978) ("It's been thrown at somebody", line 9) the

description also fits with police protocol about the conduct of interviews with suspects in England, according to which police officers are instructed to not accuse the suspect[57].

The suspect's version that the incident began through accidental spillage and subsequently turned into a fight is challenged by the police officer later in the same interview:

#6.5 [PN-03]

1	PO2:	hh If that's how the accident (0.4) or this fight's happened
2		(0.2) then fair enough (.) fights happen. But i[t
3	S:	[Mm
4	PO2:	appears to be (0.3) an ongoing bullying problem that's taken too
5		far.
6		(1.5)
7	PO2:	And there's- (0.2) she is- what injuries have you sustained from
8		the assault. (From that-) (0.3) that particular night >that
9		particular day< what injuries did you have on you.
10		(0.5)
11	S:	None
12		(.)
13	PO2:	None at all.

The officer (PO2) opens his turn with the characterisation 'accident' (line 1), then either substituting or adding 'fight' ("or*"* can work either to add an item to a list or as a repair marker, substituting an item for a prior item) (line 1). He then sets those characterisations aside ('those' being 'accident' and 'fights happen') with the suggestion that what happened fits another pattern, an 'ongoing bullying problem' (line 4), and recasts the categorisation of the event to an 'assault' (line 8), thereby successively upgrading the seriousness of the incident and, by implication, the suspect's conduct that led to the incident. Moreover, the way he portrays the incident has different practical implications, especially in terms of legal relevance, since whether within a broader bullying context or not an assault represents a criminal offence.

This recharacterisation work relies also on the contrast that PO2 draws between the injuries sustained by the suspect, i.e. none, as the suspect herself explicitly states when asked

[57] As I was conducting some ethnographic observations in a police station towards the end of 2015, I had the chance to talk with several police officers about how these interviews are currently conducted in England. During these conversations, they have always emphasised the fact that their institutional agenda is not to elicit confessions or accuse people, but rather to obtain an account from the suspect about a particular incident and evaluate it based on the evidence they previously collected. Their institutional agenda and the practices for evaluating suspects' stories is the focus of Chapter 4. For reading more about eliciting confessions see Feld (2006), Dixon (2010) and Carter (2011).

about it by the officer, and those that PO2 later goes onto detail that were sustained by the alleged victim, as one can see in the extract below (and previously analysed in chapter 4):

(from #4.2)

```
39  PO1:                              [Okay .hhh from the injuries
40          that we've seen on Mau↑ree:n, (0.5) >you do know- you
41          do remember that she was remanded in hospital<
42          overnight, [don't you.
43  S:                 [(°yeah°)=
44  PO1:    =Okay .hh the reason why Maureen was in hospital was
45          because she received a severe kicking (.) on her back,
46          .hhh which caused ehmm some (.) damage to her kidneys.
47          And at the time of the assault, she actually wet herself
48          (0.6) and actually that indicates- I mean >I'm not a
49          medical expert or anything< but that indicates that
50          she received a severe kicking in the back. (0.5) .hh
51          damage to her kidneys and for the hospital to remand her
52          overnight(0.5)for observations, and she also had ehm
53          (0.3) a CCT scan (0.4) to monitor her kidneys. (0.6) So
54          obviously she must have got quite a g- a good kicking in
55          the back=
56  S:      =°Uhum°
```

The fact that the suspect did not sustain any injuries from the incident, whereas the putative victim had to be remanded in the hospital overnight to have her damaged kidneys monitored is used to recast the event. Instead of being characterised as a fight which was the outcome of an accidental spillage of soft drink, it can be now seen as an assault which was deliberately committed.

In extract #6.5, the police officer steps back from the suspect's version; he does not contest her account, but he shows how the same event can be reinterpreted if it is put into a different context, in this case, a context of ongoing bullying. If one takes those same facts and puts them into that picture, there will be a different gestalt (Garfinkel, 2002). That provides a different context in which to interpret the conduct of both girls - if the context is a pattern of bullying, then the incident can be taken to have a more 'blameable' cause, that is, that she intended to cause harm on the victim (*mens rea* element).

A similar device is used by an adult male suspect during an interview in which he is being questioned about an incident involving an assault and criminal damage that occurred in his ex-girlfriend's neighbourhood.

#6.6 [PN-80]

PO1: Mmm earlier on tonight you were arrested by: PC0916 Smith (1.1) at Smiths Falls Police Station in relation to eh: an assault and criminal damage eh:: which was an incident relating to eh:: (0.5) eh: I think it was forty eight Duncan Close earlier on today.
(0.9)
PO1: In your own words, and in your own time obviously, d'you wanna (1.0) to go ahead and tell me exactly what happened,
(1.1)
S: I was down me brother's today, he lives on eh:: Baker Road.
(1.3)
S: I knew I'd got to hand meself in anyway today to PC813.
(0.7)
S: .hh I phoned up me ex-girlfriend (0.7) .hhh and she was cry:ing, very upset, saying that she'd spent the night in police custody,
(0.3)
S: An- me ex-girlfriend being the one that lives at forty six Duncan Close=
PO1: =°Okay°
S: Miss Beth Rawlings
(0.6)
S: Sh- sh- she was cry:ing, she said she'd spent the night in police custody
(0.5)
S: Because she'd had yet >another run-in< with the neighbour.
(0.8)
S: I phoned a taxi (0.4).hh told him to go to 48 Duncan Close.
(0.8)
S: When the taxi pulled up I says to the taxi driver, can you turn round in the close.hhh I'll be two minutes, and then I want to go to Potter Street Police Station
(.)
S: Me thinking I'd be two minutes:
(0.4)
S: .hh I went through the porch at forty si-forty six Duncan Close,
(0.3)

38 .hh I knocked on the front door,
39 (1.0)
40 S: Unfortunately, knocking on the front door (0.5) >as you can see
41 I've got my hand in a plaster cast< (0.3).hhh as I was knocking
42 on the front door (.) little window, the little window went in
43 (0.8)
44 At this stage (.) a bloke that I vaguely remember lives there
45 (.) came running out (.) and hurled himself towards me,
46 (0.2)
47 .hh and we were wrestling in- in the little (0.5) porch,
48 (0.7)
49 S: .hh as I'm trying to tell him not to touch the kids next door
50 anymo::re(0.2) him and his wife start beatin' me around the head.
51 (0.2)
52 S: And as it- we spilled out into the front ga:rden .hhh >then
53 there's loads of people round me<
54 (0.6)
55 S: About si- between six and ten people round me .hh an' all I can
56 remember is tryin' to fight my way out of there
57 (0.3)
58 S: As everyone's trying to hit me (.) >and that's it<
59 (0.8)
60 S: >Simple as that<
61 (0.7)
62 S: And I don't know who the people we::re
63 (0.2)
64 S: There's a couple of people across the road .hh and that's
65 it, >and that's all there is<

Similar to the previous case, here in extract #6.6, the suspect does not explicitly claim that the incident was an accident. Instead, his defensiveness is embedded in a description in which he happened to have his hand in plaster (">as you can see I've got my hand in a plaster cast<", lines 40-41), so that by knocking on the little window he inadvertently (accidentally) broke it. Although the accidental character of the incident is conveyed by several features of the description, including the context in which the action took place (see section 6.4) and the impersonal construction (see section 6.5), it is important to highlight also the verb he selects to describe the physical contact between his hands and the door. By describing his action as 'knocking', instead of 'banging' or 'punching', for example, he characterised his conduct as perfectly innocent, as something that anyone would do for calling someone inside the house.

The suspect then continues his story by describing a scene in which the resident of the house, a bloke that he vaguely remembered, responded to the breaking of the window by running and hurling himself towards him (lines 44-45), when they started to 'wrestle' in the little porch (line 47).

The key point here is to notice that the suspect's selected description suggests that the consequences of his actions, i.e. the breaking of the door and the 'fight', were not intended by him; they were rather unfortunate and unexpected outcomes of an action performed accidentally.

6.5 Building a context for the accident

The second property associated with the defence of 'accident' concerns the *context* constructed by suspects in order to describe each of the potential transgressive pieces of conduct.

(from #6.2)

```
1  S:     °Okay° (0.6) Mmm what happened is mmm (0.5) school had finished
2         (0.5) and I was going to go town (0.4) with one of my friends but
3         I hadn't caught up with her because she (0.3) went ahead to catch
4         the bus.
5         (0.7)
6  S:     And I was runni:ng,
7         (0.2)
8  S:     a:nd I spilt some- (0.5) I spilt some pop over Maureen:, and then
9         she turned around and pushed me.
```

In this extract, one sees how the suspect frames her account by depicting the unfolding scene as an ordinary, unexceptional one (lines 1-4). Her description is comprised of a series of unremarkable features of her being an ordinary student, doing things every student does, in a particular order that makes sense for everyone who hears it. Each particular part of these descriptions sets up and accounts for the subsequent part and gives credibility to the version in which the incident has arisen from an accident – e.g. it is more feasible to spill some liquid on someone accidentally if you are not walking at a normal pace; one should have an excuse to run, which is provided by an attempt to catch up with a friend who went ahead to take a bus, etc. The context is one in which a student leaves school at the end of the day and runs to catch

up with a school friend who went ahead, in order to take the bus into town together. By highlighting the scene's usualness, unremarkableness and non-problematic features, the suspect is 'doing being ordinary' (Sacks, 1984b). She chooses to describe the incident using a first-person narrative which establishes the ordinariness of the scene paving the way to the incident, making available the juxtaposition of the ordinary with the extraordinary actions and events that subsequently occurred. In other words, this narrative is designed to portray the suspect as someone who was not looking for trouble, but rather the trouble came to her, accidentally (Kidwell, 2009).

(from #6.6)

```
15 S:     .hh I phoned up me ex-girlfriend (0.7) .hhh and she was cry:ing,
16        very upset, saying that she'd spent the night in police custody,
17        (0.3)
18 S:     An- me ex-girlfriend being the one that lives at forty six Duncan
19        Close=
20 PO1:   =°Okay°
21 S:     Miss Beth Rawlings
22        (0.6)
23 S:     Sh- sh- she was cry:ing, she said she'd spent the night in police
24        custody
25        (0.5)
26 S:     Because she'd had yet >another run-in< with the neighbour.
27        (0.8)
28 S:     I phoned a taxi (0.4) .hh told him to go to 48 Duncan Close.
29        (0.8)
30 S:     When the taxi pulled up I says to the taxi driver, can you turn
31        round in the close .hhh I'll be two minutes, and then I want to
32        go to Potter Street Police Station
33        (.)
34 S:     Me thinking I'd be two minutes:
35        (0.4)
36 S:     .hh I went through the porch at forty si- forty six Duncan Close,
37        (0.3)
38        .hh I knocked on the front door,
39        (1.0)
40 S:     Unfortunately, knocking on the front door (0.5) >as you can see
41        I've got my hand in a plaster cast< (0.3) .hhh as I was knocking
42        on the front door (.) little window, the little window went in
43        (0.8)
```

44 At this stage (.) a bloke that I vaguely remember lives there
45 (.) came running out (.) and hurled himself towards me,

In the extract above, the same device is used by the suspect, who builds a narrative in which the descriptions of the actions that preceded the potential criminal offences are put into a context of a mundane scene. This context is one in which a man phones a taxi driver, asks him to go to the address of his ex-girlfriend's neighbour and asks the driver to wait for two minutes. The 'normality' or ordinariness of the scene, and therefore the suspect's 'innocence' is conveyed particularly by his implicit request for the taxi driver to wait for him as he thought he would not take longer than two minutes ("I says to the taxi driver, can you turn round in the close .hhh I'll be two minutes", lines 30-31) and wanted to go to the police station afterwards ("and then I want to go to Potter Street Police Station". By doing so, he relies on some sort of commonsense knowledge to convey the mundane and unproblematic nature of his conduct. Through his description, he implies that he would not have asked the taxi driver to wait for him nor have told the driver that he wanted him to drive to a police station if he had been going to have a fight with someone.

One can see how the suspects build a particular context in which the incident took place and the main action was committed. In both cases there is a plausible or reasonable account or an account of legitimate circumstances for someone doing what they were doing – e.g. running to catch a friend after school or taking a taxi and asking the driver to wait for him until gets back from a talk with his ex-girlfriend's neighbour, and these accounts seem even more legitimate or plausible once one notices a contrast between the triviality or ordinariness of the context in which the incident takes place and the extraordinary nature of the incident itself. They are rather careful to put those descriptions together and, without saying that it was unintentional, both suspects convey that sense of non-deliberateness. In sum, they are designing turns to depict the episodes as justifiable accidents - incidents that can be explained in terms of perfectly understandable circumstances at the time.

6.6 Using agentless or impersonal constructions

The third device for describing an incident as having arisen 'accidentally' is the use of agentless or impersonal constructions by the suspect, as one can observe in the following extracts.

(from #6.3)

PO1: An' how did you trip then? Wh- wh- how- what caused you to trip?
(0.7)
S: .hh cause there's: there's li::ke (1.3) there's a ke:rb and then it's the Holiday Inn entrance
(0.5)
And that's like basically where it all happened.
(0.5)
Where like the cars come in and that, and I was just running, >and buckled a bit, and it tripped and it spilled on her< and it spilled on me al:so. And I was just like hhh sorry and she just turned around and pushed me and I said oh why did ya do that for ˚an' whatever˚

(from #6.6)

S: .hh I went through the porch at forty si- forty six Duncan Close,
(0.3)
.hh I knocked on the front door,
(1.0)
S: Unfortunately, knocking on the front door (0.5) >as you can see I've got my hand in a plaster cast< (0.3) .hhh as I was knocking on the front door (.) little window, the little window went in

#6.7 [PN-80]

PO1: So: (0.6) you've gone to number forty eight Duncan,
S: Yes: with [the intention-
PO1: [( )
S: With the intention of tellin' the ma:n (0.3) not to pick on the kids: next doo:r cause the last six months. h to year-to a year, he's been pickin' on (.) my ex-girlfriend's children.
(1.9)
S: And as I've banged on the front doo:r my plaster cast has gone through the little pane of glass (.) in the front door.

#6.8 [PN-80]

S: My intention was to talk to the man: unfortunately as I knocked on the door: .hh my plaster cast went through the little window.

By contrast with extract #6.2 (line 8) in which the suspect had said it was she who spilt the liquid ("I spilt some pop over Maureen"), here in the extract #6.3 (line 9), she selects an

agentless construction, i.e. 'it', which de-agentifies the conduct. By doing so, the suspect seems to be oriented to sustain the accidental character of the episode and undermine any sort of claim that it was an intentional action. The same device of agentlessness[58] is also used multiple times by the suspect in the interview about the fight that ensued after the suspect broke a small pane of glass in the front door; in extracts #6.6, #6.7 and #6.8, he defends himself against the allegation of criminal damage by saying that "the little window went in" (line 42); "my plaster caster has gone through the little pane of glass (.) in the front door" (lines 8-9) and "my plaster cast went through the little window" (line 2), respectively.

As Pomerantz (1978) has remarked, one of the practices to attribute responsibility involves formulating an utterance in which there is an actor-agent who performed a particular blameworthy action. Thus, by using those agentless or impersonal constructions, the suspects above are building descriptions that are "shaped as reports of 'events that happened' rather than of actions performed by actor-agents" (Pomerantz, 1978, p. 117). In the previous extracts, both suspects have used that device in order to deny or mitigate their responsibility regarding the crime for which they are investigated.

6.7 The innocent uses or purposes of the items related to the incident

The fourth feature associated with the (implicit) construction of an incident having been unintended, but rather the outcome of some accidental conduct or circumstances, concerns the nature of the objects involved in the incident. In this next example, also from the interview in which the suspect is being questioned about a possible assault on a girl over whom she had spilt, or thrown, some liquid, the suspect is asked about 'what she had in her hands' (lines 1-2) while she was walking home:

#6.9 [PN-03]

```
1  PO1:   So you were sayin' that you were walking ho:me, and you had- what
2         did you have in your han:ds,
3         (0.2)
4  S:     I had a bottle of pop my friend had ga:ve it to me
5  PO1:   Wh- what was th- what was the pop,
6         (1.0)
7  S:     .hh It was:: one from dinner.
```

[58] I refer here to the absence of human agency. In some of the cases examined above, the agency is transferred to an inanimate object such as a plaster cast (extracts #6.7 and #6.8).

8 (0.6)
9 PO1: >What was it though<,
10 S: Mmm (1.3) ˚I can't remember which one it was, it was::˚ (0.3) a::
12 (1.1) ˚green bottle˚ (0.2) I can't really remember, I [can't-
13 PO: [What
14 (liquid) was it,
15 S: It was: (0.5) either: (0.4) orange juice or blackcurrant, ˚one of
16 them˚
17 (2,9)
18 PO1: Or blackcurrant yeah? (2.3) okay

1

In response, the suspect replies that "I had a bottle of pop my friend had ga:ve me" (line 4), then elaborates when asked what the liquid was by describing it as "either: (0.4) orange juice or blackcurrant" (line 15), thereby selecting non-injurious or harmless substances that are also typically found in schools. That is even clearer once one compares it to the version selected by the police officer in that case. In contrast to the suspect's claim, the police officer suggests a potentially injurious liquid – e.g. tea, coffee or some other hot drink (extract #6.4, lines 19-20) - which is supported by the evidence of the colour of the staining on the victim's top.

From #6.4 [PN-03]

18 PO2: and doing that? hh (I-) the whole top is ruined. (0.6) It's all
19 stained. An' it's stained with a brown liquid I think might be
20 tea or coffee or some (0.6) some hot drink.

A similar use can be identified in extract #6.6, in which the suspect's descriptions emphasise the fact that he was wearing a plaster cast in his hands, an object that is 'innocent' in its nature or use.

From #6.6 [PN-80]

38 .hh I knocked on the front door,
39 (1.0)
40 S: Unfortunately knocking on the front door (0.5)>as you can see
41 I've got my hand in a plaster cast< (0.3) .hhh as I was knocking
42 on the front door (.) little window, the little window went in.

The account that the suspect has, 'as you [police officers] can see', his hand in a plaster cast, serves to mitigate his responsibility towards the criminal damage – i.e. it is relatively plausible that someone could accidentally break a glass by knocking on a window with a plaster

cast in the hands - but also downgrades the level of intentionality regarding the assault – i.e. normally, if you are using a plaster cast on your hand, it means your hand is injured and you will not be able to use it as perfectly as in normal conditions.

6.8 The disproportionality between the suspect's action and the victim's reaction

The fifth and last feature to characterise the incident as having arisen accidentally refers to the disproportionality between the suspect's conduct and the victim's reaction; this disproportionality establishes, in the suspect's account, a contrast between the suspect's reasonableness and the victim's unreasonableness.

From #6.2 [PN-03]

```
1  S:    °Okay° (0.6) Mmm what happened is mmm (0.5) school had finished
2        (0.5) and I was going to go town (0.4) with one of my friends but
3        I hadn't caught up with her because she (0.3) went ahead to catch
4        the bus.
5        (0.7)
6  S:    And I was runni:ng,
7        (0.2)
8  S:    a:nd I spilt some- (0.5) I spilt some pop over Maureen:, and then
9        she turned around and pushed me.
10       (0.4)
11       And went to punch me.  And then, (0.4) I just remember, I think
12       (0.3) I- (.) slapped her
13       (0.2)
14 S:    or punched her first,
15       (0.2)
16       and then (1.0) we just started fighti:ng,
```

The central issues in this extract concern *temporality* and *intentionality*. In other words, which action has initiated the sequence of events. On one hand, the suspect's description conveys that the alleged victim hit her first, which means that the suspect hitting the victim is depicted as a reaction, not a first action. On the other hand, the suspect acknowledges that the victim's action was itself a reaction, namely a reaction to the suspect spilling drinking on the victim. However, this first action, i.e. spilling, was not deliberate. To sum it up, in this case, one has:

1. a non-intentional first action by the suspect ("I was runni:ng (…) and I spilt some pop over Maureen:", lines 6-8);
2. an intentional reaction by the victim ("and then she turned around and pushed me (…) and went to punch me" (lines 8-11);
3. an intentional reaction by the suspect ("And then (…) I slapped her (0.2) or punched her first", lines 11-14).

By conceiving her first action as accidental, the suspect has provided the grounds for characterising the victim's reaction as the first action done deliberately. The sense of deliberateness is conveyed by a *hendyadic* construction ("she turned around and pushed me", line 9), used commonly to complain about someone's conduct (Drew, Hakulinen, Niemeni, & Rossi, in preparation).

However, she still needs to account for the fact that both she and the alleged victim had produced actions which were deliberate and reactive in their nature. In order to display her innocence then, the suspect has to distinguish between her and the victim's reactions. She does so by conveying the sense of disproportionality of the victim's reaction in comparison to what she (the suspect) had previously done. The suspect shows how unexpected the event was by exhibiting the reasonableness of her conduct, which was entirely innocent though it had an unfortunate consequence (her spilling drink on the other girl) which resulted in the putative victim's unreasonable reaction (turning around, pushing and preparing to punch her). In lines 8 and 9, the victim is portrayed as the one who first acted deliberately by turning around and pushing the suspect. After a pause (line 10) she adds that the victim was moving towards her to punch her, an additional piece which also serves to establish the contrast between the suspect's reasonableness and the victim's unreasonableness.

The suspect's conduct would not deserve the reaction that it got. The reaction is unwarranted and unexpected; in this sense, this makes not only the spilling but the whole event an accident and it recasts the fight as the unfortunate consequence of an accidental act.

From #6.6 [PN-80]

```
30 S:     When the taxi pulled up I says to the taxi driver, can you turn
31        round in the close.hhh I'll be two minutes, and then I want to
32        go to Potter Street Police Station
33        (.)
34 S:     Me thinking I'd be two minutes:
35        (0.4)
```

36 S: .hh I went through the porch at forty si-forty six Duncan Close,
37 (0.3)
38 .hh I knocked on the front door,
39 (1.0)
40 S: Unfortunately, knocking on the front door (0.5) >as you can see
41 I've got my hand in a plaster cast< (0.3) .hhh as I was knocking
42 on the front door (.) little window, the little window went in
43 (0.8)
44 At this stage (.) a bloke that I vaguely remember lives there
45 (.) came running out (.) and hurled himself towards me,
46 (0.2)
47 .hh and we were wrestling in- in the little (0.5) porch,
48 (0.7)
49 S: .hh as I'm trying to tell him not to touch the kids next door
50 anymo::re (0.2) him and his wife start beatin' me around the head
51 (0.2)
52 S: And as it- we spilled out into the front ga:rden .hhh >then
53 there's loads of people round me<
54 (0.6)
55 S: About si- between six and ten people round me .hh an' all I can
56 remember is tryin' to fight my way out of there
57 (0.3)
58 S: As everyone's trying to hit me (.) >and that's it<
59 (0.8)
60 S: >Simple as that<
61 (0.7)
62 S: And I don't know who the people we::re
63 (0.2)
64 S: There's a couple of people across the road .hh and that's
65 it, >and that's all there is<

A similar pattern can be noted in the previous extract. The suspect's defensiveness involves describing the reasonableness or the unproblematic character of his actions before the incident, the context in which the untoward action occurred, e.g. instead of just saying he took a taxi and went to the place where the incident happened, his description also contains what he said to the taxi driver, that he would be back in a couple of minutes, which might imply nothing problematic would take place ("When the taxi pulled up I says to the taxi driver, can you turn round in the close .hhh I'll be two minutes", lines 30-34). That context is coupled with the non-deliberate nature ('unfortunately', 'knocking on the door', 'the little window went in') of the

first transgressive piece of conduct (lines 40-42). Whereas the suspect constructs his conduct as having been reasonable and the incident an accident, he describes the victim's reaction as disproportionate. That disproportionality is conveyed through the deliberate and the exaggerated nature of the victim's actions ("a bloke (…) came running out (.) and hurled himself towards me", lines 44-45). This contrast between the suspect's and the victim's actions is also evident when the former says he was 'trying to tell him not to touch the kids next door any more', whereas the victim, aided by his wife, starts beating him around the head (lines 49-50).

In sum, by portraying the victim's reaction to the suspect's untoward though accidental action as disproportionate, the suspect not only mitigates his responsibility regarding the incident, but also partially attributes the blame to the other person(s) involved, portraying the victim as having played a significant role in escalating the incident into what has come to be regarded as an assault, causing criminal damage etc. The disproportionate character is established by describing the conduct of both suspect and victim, and the unreasonableness of the latter's actions not only derives from the accidental character of the event but also makes it even more accidental. These descriptions convey the completely inadvertent and non-deliberate character of the harm. In all these cases, it is undisputed that a harm has been done (e.g. breaking of a window, the injuries sustained by the girl), but the actions were not part of any sort of plan. It was not their intention to break someone's window or to have a fight with and injure someone; the alleged victims overreacted, their responses were not commensurate to the previous (accidental) actions performed by the suspects.

6.9 Conclusion

The analysis above reveals some important issues concerning how different versions of the same episode are produced within a police interview. First of all, although police officers conceive of police interviews as a *search for information*, it turns out to be that they involve collaborative work whereby *information is created*. Suspects will build their versions of incidents and episodes according to the questions they are asked and the information police officers bring to the table; that is, they will move across different defensive strategies throughout the interview, using multiple descriptive resources - movements that can be discerned in the deconstruction of the event into multiple actions or constituent elements, instead of looking at the incident as a single unit.

Whereas in the Becky Watts case and in the interview about the old man who had exposed his genitalia to a teenage neighbour reviewed here (#6.1), the main suspects described the incident or the action as 'a terrible accident' or 'accidental', respectively, the teenage girl and the man from the other cases I examined (all the other extracts shown in this chapter) do not build a version in which they simply say the event was an accident, but rather describe a series of actions through which the police officers *might conclude* they had been trying to portray the incident as not having been committed intentionally. As a descriptive strategy, this sort of defensiveness can thus be produced by a suspect even without using the word 'accident' or its variables – e.g. accidental, accidentally, and so on -; and by doing that, the inferences are left for the police to make. Put another way, by using particular descriptive devices and resources, suspects manage to *exhibit* rather than *claim* that their actions were not intentional (Drew, 1992; Sacks, 1992).

But which then are the dimensions that underlie the understandability of this account as one in which a suspect is representing him/herself as being innocent? What are the properties of talk that enable the police officers to hear a particular description as a portrayal of an event as having been [arisen of] an accident? As I showed in the previous sections, the accountability – hearability and recognisability – of these descriptions as being a particular defence strategy – portraying an event as an accident – is achieved through some main analytical properties, features or practices which include: a) building a plausible and trivial context in which the untoward incident occurred; b) the description of the untoward action; c) the use of impersonal or agentless constructions; d) the harmless nature of the objects which are related to the incident; e) representing the disproportionality between the victim's reaction and the aggressor's untoward conduct – or making the victim the assailant.

These features are evidently intertwined and their separation into different sections has been done for analytical purposes. The accountability of the descriptions I have examined through the chapter does not rely on a unique feature, but rather on the ability to couple some of them in a way that each one establishes the grounds to the other one. This form of arranging their narratives, and the co-selection of items and action descriptions, can constitute for these actions and for their agents, i.e. suspects, a particular moral profile. The examples I have analysed exhibit the agents' actions as having been accidental/non-deliberate both in terms of their content and their sequential organisation (Jayyusi, 1993).

Finally, one might notice that although this chapter is about how suspects build a particular defence strategy - an appeal to an accident - I also included several extracts in which police officers are acting. In many of those extracts, police officers are challenging the

suspects' claims or accounts by presenting an alternative version of the scene, and the comparison between those versions seems to make those properties or features even more visible.

Chapter 7
Counter-denunciations

7.1 Introduction

When someone is arrested, the person is expected to provide an account or an explanation for his conduct. One can build a defence that might deny, excuse or justify the act. According to Scott and Lyman (1968): "excuses are accounts in which one admits that the act in question is bad, wrong or inappropriate, but denies full responsibility" and "justifications are accounts in which one accepts responsibility for the action in question, but denies the pejorative quality associated with it" (Scott & Lyman, 1968, p. 47). A question one might ask is: is the typology above exhaustive? Is there any other defensive strategy available to a suspect besides those ones? In order to inspect that, I should examine the following extracts, all of them from police interviews with suspects in England.

#7.1 [PN-59] (criminal damage to a car)

```
1  PO1:  Okay .hhh well (.) tell- you tell me (.) what you did last night
2        (0.2) sa:y (1.3) >j- just tell me< your circumstances of events
3        last night.
4        (0.3)
5  S:    My whole day?
6        (0.3)
7  PO1:  Yeah.
8        (0.4)
9  S:    I went to the football, (0.4) Borroway City game.
10 PO1:  Uh-huh
11       (0.5)
12 S:    I came home, (0.2) with my partner, (0.4) and two children, (2.1)
13       There was a lot of noise going off outside (.) from
14       (0.5)
15 PO1:  What time was that?
16       (0.8)
17 S:    Er::: about half past seven (2.6) pm (2.5)  There was a lot of
18       noise going off outside, I went out to see what was going off
19       (1.2) and I had some abuse out of the window (.) from Te:d (1.2)
20       and his girlfriend.
```

The case above shows a suspect (S) who was arrested for criminal damage to a car that belonged to one of his neighbours. When asked by the police officer (PO1) about the events on that night, he builds a narrative in which the putative victim is portrayed as the one who initiated the incident (lines 18-20, "I went out to see what was going off (1.2) and I had some abuse out of the window (.) from Te:d (1.2) and his girlfriend.").

#7.2 [PN-13] (threatening and abusive behaviour)

```
1  PO1:   Obviously (1.5) what- >something's happened< tonight Frank=
2  S:     =Ri:gh[t,
3  PO1:         [>There was a-< there was an incident before I (0.4)
4         arri:ved (0.3) .hh at Guntley Street.
5  S:     Mhm=
6  PO1:   =>And what I'd like you to do< if possible (1.0) is to tell me
7         your side of the story as to what's happened tonight °please° or
8         last night.
9         (2.3)
10 S:     Right (.) the- the way I see it (1.4) we're all watching the
11        football (1.6) It- (0.6) my wife (.) >myself and my daughter<
12        (0.5) i:n- in my hou:se (2.0) uh:: (1.4) when it finished (0.3)
13        there was a lot of ba:nging (0.6) going on (.) from next door
14        (1.0) >which has been< happening quite a lot (0.2) recently (1.4)
15        an:d uh::: (1.7) for what reason, I don't know (0.4) for whatever
16        reason (.) she's doing all this banging (0.9) I- I feel it's to
17        wi:nd my wife up (1.0) but I- I don't get involved in it (2.0)
18        .hhh having a few drinks tonight (0.2) watching the football (.)
19        it was getting louder and louder .hh (0.2) football finishes
20        (0.5) goes round (1.5) to say (0.8) >"enough of the banging"< (.)
21        because >it was on the wall< (0.4) It was uh:- it was like
22        banging on the wall (2.7) Went round to ask her (0.7) to keep it
23        down,
```

This second extract refers to a case in which the suspect (S) and his wife were arrested for having threatened and behaved abusively towards the next-door neighbour and one of the police officers (PO1) interviewing him. When asked about the event, the suspect builds a defence in which he implies that the incident had been initiated by the putative victim (line 13, "there was a lot of ba:nging (0.6) going on (.) from next door"), and the situation is depicted as an ongoing problem (line 14, ">which has been< happening quite a lot (0.2) recently").

#7.3 [PN-05] (criminal damage to a stereo sound system)

```
1  PO1:   Okay Mr Simkims .hh uh when you were arre:sted (.) you actually
2         said that you didn't do it. <Have you got anything else> (.) to
3         as- add to that?
4  S:     Yeah, for the benefit of the court (  ) Mr Lovatt is a (0.2)
5         heroin and crack addict (0.2) with an alcohol problem, (0.3) and
6         was trying to get money off me. (0.4) And that's all I have to
7         say.
8         (1.2)
9  PO1:   Okay
```

This third extract is part of a police interview in which the suspect was arrested on suspicion of having damaged his neighbour's stereo sound system. In this case, in addition to denying the accusation, the suspect seems to build his defence by referring to the putative victim's predicates (lines 4-5 "Mr Lovatt is a (0.2) heroin and crack addict (0.2) with an alcohol problem") and to his (Mr. Lovatt) conduct towards himself (lines 5-6, "and was trying to get money off me").

The common aspect among these three cases is that the interactional situations above open up the possibility of discrediting the victim's character by displaying their *actions, conducts* and *motives* in a bad light. After all, the suspects are being asked about their own conduct and their involvement in a potential criminal offence; there is no imperative or logical reason for them to refer to the victims other than being the objects of what they supposedly did. In other words, these cases suggest that a suspect can defend himself against an accusation by blaming the putative victim for the incident and then making him/her at least partially responsible for 'what happened'.

The topic has been examined by several authors in different contexts, although mainly focused on cases of rape or sexual assault (Grubb & Turner, 2012; Henning & Holdford, 2006). A relevant exception is Emerson's (1969) work on juvenile delinquency, who conducted fieldwork for more than a year at a juvenile court in a large metropolitan area in the United States and identified a similar defensive strategy which he called *counter-denunciation.* According to him, this particular defensive strategy "seeks to undermine the discrediting implications of the accusation by attacking the actions, motives and/or character of one's accusers" (Emerson, 1969, p. 156).

Although Emerson covered the broader topic of defensive strategies, including *counter-denunciations,* he did not show how that strategy is employed, moment-by-moment, as he had

to rely on his field notes and his memory. What I propose in this chapter is to regenerate the topic and examine this particular defensive strategy in its fine detail, as it is used by suspects in police interviews in England.

In order to do that, I have selected a series of police interviews in which the aforementioned strategy is directly observable. As I will show in the next sections, although *counter-denunciations* are used to deflect accusations of different crimes and in different ways, it is still possible to identify and describe some of their analytical properties, such as: a) the *temporal character of the narrative* in which this defence occurs; b) the *relation between ordinariness and 'innocence'*; c) the *use of a backstory to recontextualise the incident*; d) *descriptions of actions and conducts*; and e) *attribution of motives*. Each of these features will be discussed in the following sections.

7.2 Temporal character of narratives

As I pointed out previously, *counter-denunciation* is a defence strategy which constitutes an attempt to transfer criminal responsibility[59] to the victim or at least share it with him/her.

Before I begin to describe the practices involved in performing a *counter-denunciation*, one should look at the police interviews and locate where this defence strategy starts to take place. As we can see from extracts #7.1 and #7.2, presented in the introduction, *counter-denunciations* appear as part of a narrative constructed by the suspect as a response to a rather open-question. In these situations, the suspect is invited by a police officer to tell him/her 'what happened'. These extracts are interactional moments in which the suspects are allowed to build a *'master narrative'* (Dupret, 2011: 274–275) to describe 'what happened' in their own words, before being questioned more closely about the incident(s) in which they were involved, when their accounts will be scrutinized in police officers' subsequent questioning.

Both excerpts #7.1 and #7.2 are from an initial part of these interviews; after having introduced the interview and cautioned the interviewees, the police officer asks the suspect about what happened that particular night, soliciting his 'side of the story', i.e. from the perspective of the accused.

[59] In this chapter, I am not concerned about the success of these attempts. I am fully aware that some of them may be deflectable by lawyers in courts. Here, I am adopting a rather broad and mundane view of defensive strategies, one in which a legal defence or strategy exists as long as it is employed by the suspects throughout the police questioning in order to account for some alleged wrongdoing.

(from #7.1)

PC: Okay .hhh well (.) tell- you tell me (.) what you did last night
(0.2) sa:y (1.3) >j- just tell me< your circumstances of events
last night.
(0.3)
S: My whole day?
(0.3)
PC: Yeah.
(0.4)
S: I went to the football, (0.4) Borroway City game.
PC: Uh-huh
(0.5)
S: I came home, (0.2) with my partner, (0.4) and two children, (2.1)
There was a lot of noise going off outside (.) from
(0.5)
PC: What time was that?
(0.8)
S: Er::: about half past seven (2.6) PM (2.5) There was a lot of
noise going off outside, I went out to see what was going off
(1.2) and I had some abuse out of the window (.) from Te:d (1.2)
and his girlfriend.

(from #7.2)

PO1: Obviously (1.5) what- >something's happened< tonight Frank=
S: =Ri:gh[t,
PO1: [>There was a-< there was an incident before I (0.4)
arri:ved (0.3) .hh at Guntley Street.
S: Mhm=
PO1: =>And what I'd like you to do< if possible (1.0) is to tell me
your side of the story as to what's happened tonight °please° or
last night.
(2.3)
S: Right (.) the- the way I see it (1.4) we're all watching the
football (1.6) It- (0.6) my wife (.) >myself and my daughter<
(0.5) i:n- in my hou:se (2.0) uh:: (1.4) when it finished (0.3)
there was a lot of ba:nging (0.6) going on (.) from next door
(1.0) >which has been< happening quite a lot (0.2) recently (1.4)
an:d uh::: (1.7) for what reason, I don't know (0.4) for whatever
reason (.) she's doing all this banging (0.9) I- I feel it's to
wi:nd my wife up (1.0) but I don't get involved in it.

These instances of *counter-denunciations* appear to have in common some features associated with *temporality*. In these sequences, the police officer's request shapes an interactional environment in which the next turn – the suspect's answer – needs to be focused on the series of events that happened in a particular time and date (in extract #7.1, "last night", lines 1 and 3; extract #7.2, "tonight" or "last night", lines 1 and 8, respectively). Thus, although the question is put in a way in which it enables the suspects to build a narrative about what happened, it gives them certain constraints about the temporality of that narrative. The police officer was not expecting to listen to a series of events that went back weeks, months or even years before the incident; he is oriented to get an account of the most recent events.

Furthermore, suspects and police officers seem to orient to different dimensions of temporality. Whereas the suspects normally narrate a series of events as they happened in their daily routine and rarely talk in terms of clock-time, police officers will often ask for them to add some sort of calendar or clock-time references (extract #7.1, line 15, "What time was that?"). As Sacks (1992) noticed, one remembers events and activities as they fit into a personal or biographical calendar, even though in institutional contexts (e.g. police interviews, courtroom examination) time is quite often more properly described in terms of universalistic or 'objective' measure (Drew & Heritage, 1992, pp. 31–32).

Another commonality among these instances is the fact that these suspects do not simply build a description of what the incident was and their part on it, but rather they put these descriptions in a narrative about how the incident came to happen. In other words, their narrative is built as a *chronology* or a *timeline*, describing a series of events that sets up a scene in which the incident took place. In extract 1, although the suspect is being accused of having damaged his neighbour's car, he did not mention the potential offence itself in his master narrative. Differently, he casts his mind back and describes a series of activities he and his family were doing before the problematic event ("I went to the football, Borroway City Game. I came home with my partner and two children.", lines 9-13).

An interesting feature of this narrative is that, despite any temporal connector, the way the suspect manages to place his activities is still recognizable as an orderly sequence, as each of the actions seems to be connected to the previous and the subsequent ones.

In sum, temporality is a fundamental part of suspects' *counter-denunciation* as it allows them to establish *who did what first*. It also provides the grounds for the suspect to setting the scene in an ordinary background and contrasting it to an extraordinary event, a practice which will be the focus of the following section.

7.3 Setting the scene: an ordinary background for an extraordinary event

In the previous section, I discussed the temporal character of the narratives built by suspected criminals in England. These narratives are not flat documentary records of all the events; they are rather a selection of these records presented in its fine detail (Bennett & Feldman, 1981). Thus, as I mentioned briefly, by constructing his account as a sequential narrative, the suspect can establish a contrast between the ordinary background and the extraordinary nature of the incident, which I will now discuss in more detail.

We shall have another look at the extract below:

(from #7.2)

```
1  PO1:   Obviously (1.5) what- >something's happened< tonight Frank=
2  S:     =Ri:gh[t,
3  PO1:          [>There was a-< there was an incident before I (0.4)
4         arri:ved (0.3) .hh at Guntley Street.
5  S:     Mhm=
6  PO1:   =>And what I'd like you to do< if possible (1.0) is to tell me
7         your side of the story as to what's happened tonight °please° or
8         last night.
9         (2.3)
10 S:     Right (.) the- the way I see it (1.4) we're all watching the
11        football (1.6) It- (0.6) my wife (.) >myself and my daughter<
12        (0.5) i:n- in my hou:se (2.0) uh:: (1.4) when it finished (0.3)
13        there was a lot of ba:nging (0.6) going on (.) from next door
14        (1.0) >which has been< happening quite a lot (0.2) recently (1.4)
15        an:d uh::: (1.7) for what reason, I don't know (0.4) for whatever
16        reason (.) she's doing all this banging (0.9) I- I feel it's to
17        wi:nd my wife up (1.0) but I don't get involved in it.
```

This instance illustrates a sense of *defensiveness* or *'innocence'* that is conveyed by a particular narrative built by the suspect. He starts his narrative by constructing a description of the scene before the incident. According to the suspect, he and his family – in that case, his daughter, his wife and himself - were watching a football match on a TV in his house (lines 10-12), when the problem befalls them (Kidwell, 2009, p. 33); the problem being "a lot of ba:nging (0.6) going on (.) from next door" (line 13). By building that description, the suspect conveys a contrast between the completely innocent behaviour of him and his family and the reprehensible conduct of the putative victim, who out of a sudden appears and breaks that

orderly and domestic scene. He depicts himself as being involved in an innocent ordinary scene in which they are doing things which can very easily be accounted for in terms of nothing special was happening; it is just a domestic scene in which an ordinary man is watching a football match on the TV, accompanied by his family. In this way, one is not just ordinary; one has to do 'being ordinary'; one has to construct a description of one's life and events in such a way one just does ordinary things (Sacks, 1984b).

But how exactly does he do all this descriptive work? Which are the aspects related to the turn design[60] that allow us to grasp that sense of defensiveness? Although the effort to design this innocent ordinary scene begins with his statement in lines 10-11, "we're all watching the football", it is the self-correction that comes subsequently that uncovers the relevance of the sense of ordinariness which the suspect is conveying in his description. As Drew (2013, p. 134) has indicated: "self-repairs make visible – or expose – the work it takes to construct a turn-at-talk: speakers are making small but significant adjustments to alter the design of their turns, so that turn conveys (more effectively) what the speaker is designing it to convey." After the cut-off ("It-", which is presumably referring to 'football') and the 0.6 second pause in line 11, we see a change from "we're all" (line 10) to "my wife (.) <myself and my daughter> i:n– in my hou:se" (lines 11-12). In other words, the insertion (Schegloff, 2013) is a qualified version of the previous description. The importance of this insertion is that by expanding who was there and where, it shows that it is a 'a family in their house', doing nothing but watching TV, which enhances the sense he is designing his turn to make it clear the ordinariness and the family-character of the scene. It shows the importance of turn-design, as we can see from it how he makes an effort to show that 'we' is a family unit, not just a 'group of people'. The insertion works also to introduce one of the 'dramatis personae': his wife, which would later in the interview be portrayed as an essential character in the narrative.

The rupture of the ordinary and the emergence of the extraordinary is also conveyed by the emphasis the suspect puts on the words that characterise the problem, i.e., 'lot' and 'banging' (line 13). Up to that point in his description, due to the use of impersonal constructions such as 'there was' (line 13) or 'going on' (lines 13) it is not possible to identify who was the individual doing the 'banging', although the suspect locates the problematical action as coming 'from next door' (line 13). The agency of the problematic action is then

[60] Turn design is one of the most fundamental concepts in CA. When examining turn design, one is looking at the selection of details of the verbal constrictions through which a particular action (e.g. questioning, accusing, answering, accounting for, etc.) is to be accomplished. It refers to the words and their syntactic, grammatical, and prosodic aspects (Drew, 2005, p. 85).

established by the suspect, who describes the 'banging' as being done by a woman ('she', line 16), in that case, his neighbour, who had been mentioned by the officer previously in the interview.

A similar phenomenon can be identified also in the extract below:

(from #7.1)

```
1  PC:   Okay .hhh well (.) tell- you tell me (.) what you did last night
2        (0.2) sa:y (1.3) >j- just tell me< your circumstances of events
3        last night.
4        (0.3)
5  S:    My whole day?
6        (0.3)
7  PC:   Yeah.
8        (0.4)
9  S:    I went to the football, (0.4) Borroway City game.
10 PC:   Uh-huh
11       (0.5)
12 S:    I came home, (0.2) with my partner, (0.4) and two children, (2.1)
13       There was a lot of noise going off outside (.) from
14       (0.5)
15 PC:   What time was that?
16       (0.8)
17 S:    Er::: about half past seven (2.6) PM (2.5)  There was a lot of
18       noise going off outside,  I went out to see what was going off
19       (1.2) and I had some abuse out of the window (.) from Te:d (1.2)
20       and his girlfriend.
```

Closely to what happened in the interview from which extract #7.2 has been selected, here in extract #7.1, the suspect has also started his narrative by setting a mundane scene in which he is doing ordinary activities accompanied by his family. When he initially introduces the problematic event (lines 17-18, "There was a lot of noise going off outside"), he does that without revealing the source or the agent of the first malicious action, which he only does after making clear that he acted as a reasonable person.

These examples suggest that suspects do not normally identify from the start who was causing trouble; they don't say 'X was making some noise'. They don't blame the other person straightaway; they rather de-agentify the action by using impersonal constructions such as "there was a lot of noise" or "there was a lot of banging". The suspects are casting their mind

back to the time when they were experiencing that problem and do not attribute the agency of the malicious action to someone. And this is exactly where the abnormality or the extraordinariness of the situation begins. Suspects are not immediately jumping to conclusions; they are carefully designing a description in which the extraordinariness is conveyed by this unknown source of the problem.

Consider the following excerpt from a police interview in which the suspect (S) is being asked by an officer (PC) about an altercation that she supposedly had with her next-door neighbour.

#7.4 [PN-23] (altercation with a neighbour)

```
1  PC:   Okay. (0.3) Can you giv- you tell me (.) exactly what happened,=
2  S:    =.hh Mmm (.) my children was playing (.) on my front steps (0.5)
3        just outside my front door 'cos I've got three steps leading up to
4        my front door, they were sitting on my steps (.)  .hhh Mmm they
5        was talking (.) to another boy, I think his name is Ja:cob, mm and
6        they was talking to the lad (0.4) next door, <Marshall,>  I don't
7        °know his last name though°. Mmm (1.1) .hhh then all of a sudden I
8        heard shou:ting (1.4) so I went out to see what were going on.
9        (0.6) Jonah was on his front doorstep (0.2) shouting and abusing,
10       shouting at my children, 'cos he could hear them laughing. (0.4)
11       >They weren't making too much noise.< they were just laughing and
12       joking.
```

The suspect's initial description of the scene, in this case, seems quite similar to the previous one, as it encompasses the same contrastive device, that is, between the *ordinariness* of the scene before the incident and the *extraordinary* nature of the actions taken by the putative victim.

In this example, the *ordinariness* of the scene is conveyed through the inclusion of components such as the people involved ("my children", line 2; "another boy", line 5, "Jacob", line 5, "the lad next door", line 6; "Marshall", line 6), the actions being performed ("playing", line 2; "sitting", line 4; "talking", lines 5 and 6) and the place where it all happened ("on my steps", line 4; "just outside my front door", line 3). The description of the scene is one in which some familiar children – including her own – were doing typical childish activities – playing, sitting and talking – at home. It is worth noticing how the suspect emphasises the possessive pronoun, "my", highlighting the importance of showing that the children were in a familiar territory.

The *ordinariness* of the scene is then disrupted by an external element, in that case, the putative victim, who, "all of a sudden" (line 7), started "shouting" and "abusing" the suspect's children. The second part of the contrast is then conveyed by components such as the actions being performed ("shouting", line 8; "shouting and abusing", line 9), an unreasonable and disproportionate motive ("cause he could hear them laughing and joking", lines 11-12), and especially, the temporality involved in the abrupt transition from the *ordinary* to the *extraordinary* ("then all of the sudden", line 7).

#7.5 [PN-05] (criminal damage to a stereo sound system)

```
1  PO2:   =Yeah, what did he said to you?
2         (0.8)
3  S:     Well the same as what the neighbours heard, that he was
4         threatening my family and threatening me- (0.5) threatening me
5         (.) fo- (.) for money. (1.7) I don't know (whay me), I just guess
6         it was for his crack and heroin.
7         (0.6)
8  PO2:   So, he wasn't just threatening you, he was threatening you and
9         your family,
```

The extract above illustrates another essential feature of counter-denunciations is the use of *'family'* as a descriptive resource to convey *'innocence'* and build the grounds in which the actions performed by the putative victim were not only against the suspect, but involved – and in the case above, put at risk – also some of his family. In the case above, it is interesting to notice also this part of the suspect's account is picked up by the police officer (PO2) in his next turn (lines 8-9), which suggests that, interactionally, it has gained his attention.

As we see in the cases examined in this section, a fundamental feature of counter-denunciations in police interviews with suspects involves establishing a contrast between the *ordinariness* of the scene and the events that led up to the incident and the *extraordinary* character of the action that breaks the order and transforms the mundane scene into a problem – in those cases, potential wrongdoings or crimes. Related to this, suspects will also use descriptive resources regarding family and family members in order to convey an idea that the malicious activity has not been done only against him, but also his family, including children.

7.4 The backstory: putting the event into a larger context

The current section is focused on how suspects insert details about the backstory into their narratives and how these insertions serve to re-contextualise the single incident which the suspect is being interviewed about.

Consider the following extract examined in the previous section:

(from #7.2)

```
1  PO1:   Obviously (1.5) what- >something's happened< tonight Frank=
2  S:     =Ri:gh[t,
3  PO1:         [>There was a-< there was an incident before I (0.4)
4         arri:ved (0.3) .hh at Guntley Street.
5  S:     Mhm=
6  PO1:   =>And what I'd like you to do< if possible (1.0) is to tell me
7         your side of the story as to what's happened tonight °please° or
8         last night.
9         (2.3)
10 S:     Right (.) the- the way I see it (1.4) we're all watching the
11        football (1.6) It- (0.6) my wife (.) >myself and my daughter<
12        (0.5) i:n- in my hou:se (2.0) uh:: (1.4) when it finished (0.3)
13        there was a lot of ba:nging (0.6) going on (.) from next door
14        (1.0) >which has been< happening quite a lot (0.2) recently (1.4)
15        an:d uh::: (1.7) for what reason, I don't know (0.4) for whatever
16        reason (.) she's doing all this banging (0.9) I- I feel it's to
17        wi:nd my wife up (1.0) but I don't get involved in it.
```

As I pointed out previously, although the question is designed in a way in which it enables the suspect to build a master narrative about what happened, it also gives him certain constraints about the temporality of the narrative, that is, the police officer is oriented to get a description of events immediately before or after the actual incident (the threatening behaviour and the use of abusive words against the neighbour).

However, by looking more closely at the extract above, focusing particularly on line 14, it is noticeable that the suspect was able to insert a small description that makes reference to previous events that were not supposed to be addressed by him at his narrative; in other words, by inserting the term "<which has been> happening quite a lot (0.2) recently" halfway through the narrative, the suspect is able to disguise the reference to the bigger picture of the incident and manoeuvre the constraint set by the police officer in his previous turn. The

insertion also provides sufficient ground for the suspect to attribute a reason for what his neighbour has done, that is, if he described the event as a single incident, it would be harder to say that the neighbour had done the banging to wind his wife up.

By putting the incident in a broader temporal context, what the suspect is doing is to make the incident part of a bigger picture. The single incident, in that case, should be understood as an ongoing problem in which the alleged victim is actually the perpetrator.

The following extracts are from the same police interview and are also part of the master narrative constructed by the suspect in order to 'tell his side of the story' to the police officer.

#7.6 [PN-13] (threatening and abusive behaviour)

```
1  S:    >And we can put up with it, we put up with it this long< (.) let's
2        put up with it another three weeks. (2.0) But when you nicked me
3        (.) I couldn't believe it. (1.9) After all we've had to put up
4        with, (0.2) with this neighbour (.) and you nick me? (0.9) I
5        cannot believe it. (2.0) Broke me a::rms, (0.8) bloody s:cratches
6        all over the ca::r, (0.8) ca:r tyres let dow:n, (0.2) the whole
7        lot (.) everything has happened to us (.) an:d no:body has done a
8        thing. (0.9) She called [snaps his fingers] once (0.4) and we're
9        ni(h)cked.
```

#7.7 [PN-13] (threatening and abusive behaviour)

```
1  S:    I- hhh (0.6) I think this woman has pushed us as far as we can go.
2        (1.6) and I personally have done nothing to her.
```

The extracts above are congruent with the insertion constructed by the suspect in line 14 in extract #7.2 ("<which has been> happening quite a lot (0.2) recently") as in all of them the suspect includes references to events that are not the ones which the police officer asked about – not in the time frame established by his previous enquiry. However, whereas in extract #7.2 the problematical backstory is de-agentified, in extracts above (#7.6 and #7.7), there is an explicit reference to the person who should be blamed for that ("this neighbour", line 4, extract #7.6; "this woman", line 1, extract #7.7).

In extract #7.6, lines 2-3, the suspect underlines his incredulity regarding the fact he was the person arrested by the police ("But when you nicked me (.) I couldn't believe it."). He then reformulates this narrative by inserting a contrast that accounts for his incredulity and in which he positions himself and his family as the ones who had to accept someone's unpleasant behaviour ("After all we've had to put up with, (0.2) with this neighbour", lines 3-4). By doing

so, he builds a contrast in which he and his family are the actual victims, and the putative victim is the real perpetrator, and he does so without using the categories 'victim' and 'perpetrator' – or its variables.

The suspect then continues his narrative by building a description that can be seen as a complaint against the police and how they dealt with the ongoing problem and the people involved in it. In lines 5-7, the suspect reformulates the description "all we've had to put up with," (lines 3-4) by depicting a couple of scenes which might be understood as hostile consequences of his neighbour's actions, in this case, the things that he and his family had to deal with for quite a long time. The complaint also involves a contrast between 'everything' (line 7) that the suspect and his family had to cope with and the fact that 'nobody' (line 7) has acted in order to solve this continuous problem. By using these 'extreme case formulations', the suspect portrays "the situation as a legitimate complainable" or "in a way that would not be dismissed as minor" (Pomerantz, 1986, pp. 227–228). The suspect then continues his complaint by contrasting the way the police react in the broader scenario in which the suspect is being continuously disturbed by the neighbour and how they dealt with the individual situation in which the latter portrays herself as the victim and complains about the former – blaming him for a certain criminal conduct. Whereas in the first scenario, police have not taken any action to solve the problem, in the second one they acted in a quick way – conveyed by the finger snapping in line 8 and the fact that only one call was necessary to get the police to the place - to deal with the incident.

Also, in extract #7.7 the suspect includes a reference to the backstory in a description through which he blames the putative victim ("this woman", line 1) for having created an unbearable situation that he and his family could not cope with. By saying that she has pushed them as far as they can go, he conveys an idea that he and his family had no control in the situation although they tried to maintain their reasonable characters for the whole time.

#7.8 [PN-59] (criminal damage to a car)

```
1  PC:   What uhm:: (0.9) what was- what words were exchanged then
2        (0.5)
3  PC:   when you two were talkin'
4        (0.3)
5  PC:   >at that time<,
6        (0.3)
7  S:    We've had a runnin' dispute ever since we've lived there.
8        (1.3)
```

PC: How long have you lived there for?
(1.7)
S: This- (0.2) about two years ago (0.2) this month (0.8) about two years (0.8) just over two years
PC: °Hm°
(1.4)
S: An' from day one he's just been a nightmare neighbour.
(1.0)
PC: In what respect, I mean- (0.2) wh- wh- what goes on- I don- I don't know what goes on [between-
S: [Loud music, (.) dis:cos, parties, barbecues:,
(0.2)
S: threateni:ng,
(2.1)
S: callin' my wife (0.2) >well not my wife< my partner (.) a Pa:ki bas:tard
(1.3)
S: his daughter picks on my daughter at schoo:l,
(0.8)
PC: °Hm°
(1.5)
S: He:- that caravan outside's a running youth club,
(1.5)
S : As far as I know there's underage drinking and drugs go off in the house, I don't know if he's a drug- drug dealer.
PC: .hh so how long ehm:
(0.2)
S: He steal- he stole out of my garage.
(1.5)
S: I don't trus:t- [I don't-
PC: [( )
S: Yeah, half a can of oil.
(0.5)
PC: Engine oil
(1.7)
PC: [( )]
S: [He's chucked=
PC: =°Yeah°
S: .hh he's chucked shampoo all over one of my cars once
(1.6)

```
50 PC:   .hh so it's- it's pretty much ongoin' isn't it,
51       (0.3)
52 S:    Yeah.
53       (0.9)
54 S:    The man needs sortin' out
```

The extract above is from the same interview in which extract #7.1 was picked and occurs almost immediately it. As I showed through the analysis of the extract that precedes the one above, the police officer designs his first question in order to get an account of the "the circumstances of events last night" (extract #7.1, lines 1-3). However, in the extract above, the suspect manages to re-contextualise the event, first in line 7 (We've had a runnin' dispute ever since we've lived there.") and then in line 15 ("… from day one he's just been a nightmare neighbour."). Although the question asked by the police officer in lines 1-5 is about the words supposedly exchanged by the suspect and the putative victim at the time of the actual incident ("What uhm:: (0.9) what was- what words were exchanged then when you two were talkin' >at that time,<"), the suspect is capable of skilfully evading it. Instead of detailing the words exchanged at that time, he expands the time-frame of the event and portrays it as a 'running dispute' the two neighbours have had for the whole time they had been living there.

In this first attempt to re-characterise the event, the suspect seems to share the responsibility for the problem as a 'running dispute' implies two people doing similar things. It is not clear up to that point who the victim and the perpetrator are.

This more neutral description is then substituted for another one through which the suspect portrays the putative victim as "a nightmare neighbour" (line 15). Whereas in a 'running dispute' there is no apparent party to blame, by describing someone as a 'nightmare neighbour', one is putting this person in a bad light and damaging his moral character. Furthermore, by using this description, the suspect puts the incident into a context in which the putative victim has been behaving untowardly for a long time; he has a history of deviant and criminal behaviour.

The backstory is then further elaborated in the suspect's next turns (lines 19-34), when he describes what his neighbour (the alleged victim) had been doing that would characterise him as a nightmare neighbour – in order to account for the label he had just put on him. The description is unpacked in a way in which the seriousness of the conduct is increased. Also, some of these items in this list can only be heard as problematic if we consider how he previously portrayed the agent: a 'nightmare neighbour'. Things like discos, barbecues and

parties are not problems per se, but if they are done by someone who is portrayed as a 'nightmare neighbour', they gain a new connotation.

It is important also to notice that the suspect starts the list with some sort of more general activities and then moves to more factual actions such as 'he stole out of my garage' and 'he's chucked shampoo all over one of my cars once'. Instead of just describing the most serious offences, he builds a territory in which the neighbour is a problem not because of one or two isolated incidents, but because of a series of anti-social, racist and criminal behaviour.

7.5 Descriptions of actions and conducts

In the second section of this chapter, I made a point regarding the importance of turn design when suspects are building their master narrative at the beginning of police interviews. I showed that part of what I called "setting the scene" is done through a selection of certain words that convey a sense of defensiveness. Also, word selection plays a key role when these suspects describe what the putative victim was doing, which creates a contrast between the ordinariness of the scene and the extraordinariness of the event.

The fundamental point here is to understand that a description is comprised of words which are placed together in order to perform particular actions and make a specific point. In a context such as a police interview, these words are selected to promote a particular version of the events being investigated. Suspects are not only describing a scene; by building these narratives – which contain multiple descriptions of places, actions, motives, etc. -, they are defending/protecting themselves from implicit accusations made by the putative victim and probed by the police officer during the interview.

The idea that descriptions do not merely describe is not particularly new in legal theory. Hart (1949) begins one of his pioneering papers stating that:

> My main purpose in this article is to suggest that the philosophical analysis of the concept of a human action has been inadequate and confusing, at least in part because sentences of the form "He did it" have been traditionally regarded as primarily descriptive whereas their principal function is what I venture to call "ascriptive" (…) (Hart, 1949, p. 171).

Although certainly important and innovative in the field, Hart's point does not fully capture the notion of description and of what later would be termed in conversation analysis as talk-in-interaction. In the context of an investigative police interview, ascribing responsibility to someone for having performed a particular action is not only done by saying explicitly "He did it". The suspect then needs to show that what has been done by the alleged victim (other) was wrong and reprehensible, whereas what he (self) did was normal and rational.

The following table is based on the content presented in the previous extracts. It shows some of the descriptors which are used by the suspects to depict the actions and conducts performed by themselves and their putative victims:

Table 5: Descriptions of actions

Self (positive/rational/normal)	**Other (negative/abnormal/reprehensible)**
Having a few drinks tonight	A lot of banging
Went round to ask her to keep it down	All this banging
Sitting on my steps	Shouting and abusing
Just laughing and joking	I had some abuse out of the window
To keep my wife away from it	Trying to get money off me
Separate it	Threatening my family
All we've had to put up with	Broke me arms
I personally have done nothing to her	Calling my partner a Paki bastard
Went round to ask her to keep it down	He stole out of my garage

As we can see from the table above, descriptions are not random nor neutral. They are rather tendentious, i.e. they are selected to promote a particular version or point of view, in this case, a version in which the putative victim has to be blamed for what happened, at least partially. The suspect then will select words and expressions which portray their own and others' actions and conduct as positive/rational/normal and negative/abnormal/reprehensible, respectively.

In extract #7.2, in the case in which the suspect was arrested on suspicion of having threatened and behaved abusively towards his neighbour, it is clear that the version sustained by him suggests that his neighbour had initiated the incident and he was trying to keep the situation under control. As I shown in section 7.2, the suspect builds an account in which he was doing ordinary things with his family when this peaceful scene was disturbed by 'a lot of

banging'. The suspect could have built this description in numerous ways; he could have used 'noise', 'sound', 'music', and so on to describe what he was listening at that time. Instead, he carefully selected the term 'banging', which conveys not only the unpleasant character of the sound but also its loudness. By adding the descriptors 'a lot' and 'all this', he upgrades those two features of the event. The suspect is then depicting the other's (putative victim) action in a bad light.

In addition to that, suspects can also describe what they themselves were doing in order to promote a version in which they mitigate their responsibility for what happened. In the case mentioned above, the suspect uses the phrase "having a few drinks tonight (0.2) watching football" in order to characterize what he was doing when the victim started to make all the noise. He seems then to anticipates a possible version sustained by the victim: he was drunk and that generates credibility to a story in which he threatened her. In order to avoid that, he designs this part of his account using a construction which normalised his conduct. A few are not many or too many. Having drinks is not being drunk. Having drinks during the night is much more acceptable than over the day, especially watching a football match. The same happens when he describes his conduct after hearing the 'banging' as 'I went round to ask her to keep it down'. In his version, although the neighbour was performing a wrongful act, he kept his control all of the time. He did not go there to 'shut the music off' or to 'order them to stop the banging'. In other words, he did not go there to cause trouble, even after being disturbed by the neighbour and the loud noise coming from next-door. His description conveys a rather rational and sensible approach to the problem, which helps him to portray himself as the actual victim, not the perpetrator.

To recapitulate, descriptions do not merely describe. They are tendentious, i.e., they are picked by the speaker in order to perform a particular action and promote a make a particular point. In police interviews with suspects, these descriptions are used as a defensive mechanism. One needs to portray his actions in a good light and the other's behaviour as reprehensible, and this is done by selecting specific descriptors and putting them together.

7.6 Attributions of motives

In the previous section, I explored an analytical property of counter denunciations regarding descriptions of actions and conducts. As I showed, the tailoring of these descriptions is an important feature the suspects use to convey the reprehensibility of the alleged victim's conduct and defend themselves from an implicit accusation. Another relevant feature related

to counter denunciation has to do with the description of the motives, that is, how suspects depict the reasons why he/she and the putative victim did what they are said to have done.

When asked by police officers about what happened, suspects have an opportunity not only to describe actions/conducts/behaviours but also to impute reasons or motives to the agents who performed these actions. Consider again the following excerpt, a shorter fragment of an extract previously examined in the first section:

(from #7.2) [PN-13] (threatening and abusive behaviour)

```
1  PO1:   Obviously (1.5) what- >something's happened< tonight Frank=
2  S:     =Ri:gh[t,
3  PO1:          [>There was a-< there was an incident before I (0.4)
4         arri:ved (0.3) .hh at Guntley Street.
5  S:     Mhm=
6  PO1:   =>And what I'd like you to do< if possible (1.0) is to tell me
7         your side of the story as to what's happened tonight °please° or
8         last night.
9         (2.3)
10 S:     Right (.) the- the way I see it (1.4) we're all watching the
11        football (1.6) It- (0.6) my wife (.) >myself and my daughter<
12        (0.5) i:n- in my hou:se (2.0) uh:: (1.4) when it finished (0.3)
13        there was a lot of ba:nging (0.6) going on (.) from next door
14        (1.0) >which has been< happening quite a lot (0.2) recently (1.4)
15        an:d uh::: (1.7) for what reason, I don't know (0.4) for whatever
16        reason (.) she's doing all this banging (0.9) I- I feel it's to
17        wi:nd my wife up (1.0) but I don't get involved in it.
```

After adding to his answer the frequency that the problematical action has been happening ('quite a lot', line 14) - which suggests that his defence is not only based on describing an event that happened on that particular night, but expanding it to a broader context - the suspect then continues his account by identifying the agent of the 'banging' ('she', line 16). In addition to the matter of agency, lines 15-17 are also relevant since it is at this point of his narrative in which the suspect ascribes a reason or a motivation for the problematical action done by his neighbour ("to wi:nd my wife up.", lines 16-17), although he does that in terms of low certainty ("for what reason, I don't know (0.4) for whatever reason (.)" lines 15-16; and "I feel", line 16). By putting together, the action ('banging'), its multiple features ('a lot', 'happening quite a lot recently', 'it was getting louder and louder', which characterizes the action in terms of *quantity, occurrence,* and *escalation*, respectively), the agent ('she', i.e. his

neighbour) and her motivation ('to wind my wife up'), the suspect describes the problem as a malicious provocation, for which the putative victim should be blamed.

The sense of malicious provocation is also conveyed by the reflexive construction the suspect selects at lines 15-16 ("for what reason, I don't know (0.4) for whatever reason (.)" to construct his turn. If someone looks at an event and says 'I don't know what that person's motives were', he could be saying either that he knows that the person had motives, but he can't discern them, or that if he is not able to see what the person's motives were, then this person did not have any legitimate purposes for having done what he supposedly did. In other words, one's inability to identify what the motive for a certain action conveys the idea that the person who has done the action cannot have had a motive, because there were no reasonable circumstances for him or her to have acted in that way.

Let's now compare the previous excerpt with the following one, extracted from the same police interview and also part of the 'master narrative' constructed by the suspect when asked in the beginning of the interaction about what happened:

#7.9 [PN-13] (threatening and abusive behaviour)

```
1    S:   I- I got <invo:lved> just to pull my wife off. (0.9) I- I never
2         got involved <with anything else> an I nev- I never- (1.6) I- I
3         went into the woman's house (0.5) to get my wife out. (1.1) <So
4         like> "leave it" (0.9) you know I- I- I've come round to say what
5         I've got to say (0.7) leave it at that. (4.0) Gets outsi:de an:d
6         (0.5) hhh a little bit of (.) mouthing off going on. (2.3) Myrna
7         jumps in- my wife jumps in aga:in (1.5) seen red (0.7) same thing
8         again. (0.6) Jus- (0.8) anything >I was invo:lved with< (1.3)
9         wa:s to get my wife off he:r uh: (0.6) hhh I'm not a handy person
10        (0.8) if you know what I mean, (1.0) you know I- I- I didn't go
11        round (1.4) to cause trouble. (2.0) It happened but it's: not the
12        way (2.0) you know (4.2) my in- my involvement wasn't <hitting
13        the woman> (0.3) uh: that's what I'm trying to say. (.) I went in
14        to- to keep my wife away from it (0.3) try and separate it. (1.7)
15        I don't know what else t- to add to that.
```

The malicious motivation can then be contrasted to that of the suspect. In his narrative, although he firstly denies any involvement in the incident ("but I don't get involved in it", line 17, extract #7.2), he then changes his version to one which he presupposes that he was involved, but it was for a good cause, in that case, to get his wife off an altercation with their neighbour ("I- I got involved just to pull my wife off her.", line 1, extract #7.9), a description he then

paraphrases subsequently in lines 8-9 (“anything >I was invo:lved with< (1.3) wa:s to get my wife off he:r”). By the end of his initial account (lines 13-14, extract #7.9), he reshapes the description of his motive by transforming “I got involved in it” into “I went in”, which is more neutral as it does not explicitly denote that he was involved in the altercation between his wife and his neighbour.

The suspect continues to portray his motives as being non-malicious and well-intentioned throughout the interview, as it is shown in the following extract, which happened in a later part of the interaction, when the police officer is trying to clarify some points about the suspect’s account in order to write a report on the interview:

#7.10 [PN-13] (threatening and abusive words)

```
1  PO1:   And basically (0.4) just to clarify what we've said to- (.) here
2         in this interview (0.5) hhh if I can remember (2.2) I don't
3         intend to eh (0.4) ask you too much more.  <I haven't written
4         anything so I'm going to have to try and clarify it on eh- out my
5         head. (0.5) hh eh (1.7) the initial assault (0.7) on (0.7) Allie
6         or Allegra or whatever her name is (0.6) you eh (1.3) you say
7         that you had no
8         (0.4)
9  S:     I neve[r insulted her.
10 PO1:         [You had nothing to do with (.) you neve- you deny the
11        assault, (0.2) saying that you were the peaceke[eper.
12 S:                                                    [One hundred per
13        cent (0.2) I- I went in (1.0) to take her off.
14        (0.3)
15 PO1:   To take your wife off,
16        (0.7)
17 S:     I didn't- I didn't go rou:nd for a confrontation, (1.5) hh  Allie
18        and Myrna got in a confrontation. I tried to sort it out,
```

In the extract above, by the end of his turn (lines 1-7) the police officer (PO1) begins to formulate what the suspect had previously stated about his involvement in the incident (“you say that you had no (0.4)”, lines 6-7). Since he did not finish his turn, it is only possible to speculate about how he would have completed it. It seems plausible to consider that he was going to say ‘no involvement’, ‘no part’ or something on these lines, through which he could formulate the suspect’s defence as a denial. In any case, though, the most important feature in this part is the 0.4 pause in the following line, which enables not only the suspect to step in and

deny any sort of verbal abuse towards the putative victim but also the police officer to use multiple self-corrections in order to redesign his formulation. What is corrected in these lines is not something that was factually wrong, but rather an alternative version of it, an alternative 'more suitable' term. In the case above, although all the suspect's versions formulated by PO1 ("you say you had no" lines 6-7; "You had nothing to do with", line 10; "you neve-", line 10; "you deny the assault (0.2) saying that you were the peacekeeper", lines 10-11) involve a particular level of defensiveness, there is an vital difference between the first three and the last one, i.e., whereas in the first three formulations the suspect would be denying any participation in the problematic event, in the last one he is not denying his involvement but rather qualifying what his role was during the event, what kind of participant – in that case, a peacekeeper – he was there. And it is exactly this last corrected version built by PO1 that prompts the suspect's subsequent turn (lines 12-13), in which he confirms the denial regarding the assault and qualifies the 'peacekeeper' version by describing his action ("I went in") and motive ("to take her off"). Again, this extract shows the effort suspects make to attribute 'good' or 'reasonable' motives to the actions that otherwise could be seen as untoward.

The malicious or non-legitimate motivation of the putative victim's actions appears again in the following extract of the same interview:

#7.11 [PN-13] (threatening and abusive words)

```
1   S:   Sh- <she's doing it> just to antagonise (0.4) because she hasn't
2        g(h)ot to get up for- in the mornings.  She hasn't got to go bed.
3        (2.3) And that's what made her snap (1.2) I know it is (5.0) An-
4        anything I have said is- is jus- is words (0.3) you know- you know
5        if I've- (1.7) if I've made idle threats or anything that's all
6        it's been and you know it's just- (0.5) "oh sod it." (0.8) "Oh
7        I'll bloody kill her." (0.9) But it- it is- (.) tha- that is all
8        it is. (2.2) Mmm you know what I'm saying ehm:
```

Whereas in the beginning of the interview from which extract #7.2 has been selected, the suspect selected a reflexive construction to implicitly convey the idea that the putative victim had no legitimate motive for having done what she did ('the banging coming from next door'), he now builds a narrative in which a non legitimate reason is explicitly provided ("<she's doing it> just to antagonise", line 1, extract #7.11).

As we see from the extracts shown above, besides selecting particular descriptors to characterise their actions in a good light, suspects have also another mechanism to defend

themselves and blame the putative victims for the incident. This mechanism involves attributing reasonable motives to his own conduct and malicious ones to those of the victim, which can be done either explicitly or implicitly.

7.7 Conclusion

According to the College of Policing in the UK, there is a professional structure for investigative interviewing which involves *dealing with suspects* and *providing support for the victim*. This means that police have different working protocols to conduct different types of interview, depending on who the interviewee is. These guidelines suggest that these categories – suspect and victim - are fixed or static, and police officers will orient their work and their questions in a way that the interviewee is considered either a suspect or a victim a priori.

However, by looking closely at actual audio-recorded police interviews with suspects, I noticed that one of the defence strategies employed by these concerns building a counter-denunciation in which he/she blames the putative victim for the problem. Thus the categories of 'suspect' and 'victim' can undergo some modification or even be turned around, as interviews progress; far from being rigid and mutually exclusive, it may become evident – and evident to the police interviewers – that which of those being questioned is the victim and which the aggressor (suspect) is less clear, or hangs in the balance. The outcome, if there is one, depends on the accounts that each provides, on the descriptions and narratives each constructs, and the police assessment of the accountable evidence. The suspect attempts to make the putative victim at least partially responsible for the incident and perhaps transforms himself/herself into the victim and the putative victim into the perpetrator. But how is it done? What are the practices by which the suspect can perform such defence? What are the analytical properties of counter-denunciations?

As I showed in this chapter, the first feature of counter-denunciations is the context in which they are designed. They are often produced in the middle of a chronological narrative through which suspects are oriented to establish *who did what first*. The second feature of a counter-denunciation involves establishing a contrast between the *ordinary* character of the scene in which the suspect was part of and the *extraordinary* nature of the problem that was brought towards him by the putative victim. This contrastive device involves then selecting descriptive terms that will convey the commonplaceness of the actions performed by the suspect and the scene in which he participates, and the extraordinariness of the actions done by the putative victim.

The third feature has to do with describing the *backstory* of the incident. By examining the police interviews, it appears quite clearly that there is a tension between the police officer and the suspect being interviewed in terms of the topic agenda. Whereas the first is oriented to get an account of what happened in a particular time and in a specific place, the second seems also concerned with painting a bigger picture – or describing the backstory – of what is going on in order to re-contextualise the incident that occurred at that time and place. In sum, instead of considering the event as a decontextualized single incident, the suspects insert this single incident into a context of an ongoing problem in which they are the actual victims and the putative victims are the real offenders/perpetrators.

Finally, features number four and five are strongly intertwined and concern the *description of actions and conducts* and the *attribution of motives*. The fourth one has to do with the use of particular descriptors by suspects to convey their innocence and to cast the putative victim in a bad light. The fifth and last feature involves descriptions employed to impute motives to the actions and conducts performed by suspects and victims. Although the suspect can do that explicitly, i.e. he can attribute a particular motive or a reason to the victim for having acted in a certain way, it is the implicit form that deserved a closer examination: one's inability to identify what the motive for a certain action is conveys that the person who has done the action cannot have had a motive, because there were no reasonable circumstances for him or her to have acted in that way.

Chapter 8
Conclusion

The aim of this thesis was to investigate how suspects are questioned by officers in police stations in England. Using audio-recordings of police investigative interviews and a conversation analytic framework, I have described and analysed a series of activities performed by officers and suspects in these interactions, while also considering the participants' orientation to legal concepts. In this final chapter, I shall discuss three concluding points: 1) the main findings of each analytical chapter; 2) the contribution of my research for EM/CA and for socio-legal studies; 3) the limitations of my research and directions for future research.

8.1 Summary of findings of each analytical chapter:

In chapter 4, "Eliciting prejudicial information-as-evidence", I showed that in interviews concerning low-level criminal offences, police officers do not seem to be explicitly seeking confessions (possibly due to the institutional and interactional constraints produced by the PACE 1984 and the PEACE interview framework implemented in the country during the early 1990s). Instead, officers build lines of questioning in which their projects and agendas are gradually revealed, as they move from asking seemingly innocuous/neutral questions to setting inquiries which are designed to reveal weaknesses in suspects' accounts. My analysis showed that, similar to other criminal justice systems (e.g. the Netherlands), police officers in England monitor the coherence and consistency of suspects' accounts based on commonsense knowledge of social structures (Komter, 2003). These sense-making procedures are essential for bringing to light the incongruencies of these accounts and building evidence for a potential prosecution.

In chapter 5, "Formulations in police interviews with suspects", I showed that police officers used two types of formulation when questioning suspects: *self-attributed* and *other-attributed*. Self-attributed formulations involve police officers formulating what they themselves have previously said, either by transforming it or elaborating upon it. These formulations work to circumvent or neutralize protective and defensive moves performed by suspects, pursue an allegation which is usually prejudicial to the suspect, or elaborate a specific version of events for a potential prosecution.

Other-attributed formulations, on the other hand, involve police officers formulating what the suspect has said. This allows them to transform suspects' lay narratives and stories into legally relevant material (Johnson, 2008), conveying the sense that whatever was said in the interview has come from the suspect's mouth and is thus usable as lawful evidence in court. Holt and Johnson (2010) have suggested that formulations, reported speech and 'so' prefaced questions play a central role in establishing culpability, a key aim of legal discourse. In my analysis, I suggested that this legal work is done rather carefully. By using formulated versions of what the suspects have said, police officers both label the suspects' actions and categorise the nature of the incidents, i.e. they give a legal imprint to the descriptions previously provided by the suspects. Formulations thus perform moral work in a subtle away, avoiding the explicitness of an outright accusation,

In chapter 6, "Portraying an event as an accident", I showed that suspects do not explicitly state the nature of their defence when answering police officers' questions. Instead, suspects embed their defensiveness in the descriptions which comprise their narratives, thus *exhibiting* rather *claiming* their 'innocence' (Drew, 1992). I focused on a particular type of defence, namely, one in which suspects portray an event as having arisen from an accident. Drawing upon J. L. Austin (1979) and Garfinkel (2002), I identified some of the main features associated with this sort of defensive mechanism. These included building a plausible and trivial context in which the untoward incident occurred, describing the untoward action or series of actions, using impersonal or agentless constructions, emphasising the harmless nature of the items related to the incident, and representing the disproportionality between the putative victim's reaction and the aggressor's untoward conduct. My analysis demonstrated that, by employing this defensive strategy, suspects orient their actions to a vocabulary of criminal liability (in this case, *mens rea*), relying on commonsense practices of reasoning to exhibit their 'innocence' and mitigate their culpability.

In chapter 7, "Counter-denunciations", I discussed another defensive mechanism employed by suspects in police interviews in England, *counter-denunciation* (Emerson, 1969). I started by showing how College of Policing guidelines in the United Kingdom establish different protocols for interviewing suspects and victims, treating these categories as fixed and static. I then showed, however, that these identities are in fact rather fluid and ambiguous in practice, with suspects often shifting some or all of the responsibility onto the putative victim when accounting for the event under investigation. Although victim-blaming has been studied in legal contexts, none of this research has considered how this defensive mechanism is employed interactionally, at the turn-by-turn level. I have proposed that there are five principal

analytical properties of counter-denunciations: the temporal character of the narrative in which this defence occurs, the relation between ordinariness and 'innocence', the use of a backstory (a history of incidents preceding the one under investigation) to recontextualize the incident, the description of actions and conducts, and the attribution of motives. In line with the previous chapter, therefore, this chapter showed how suspects construct their narratives and accounts in a way that displays awareness of legalistic distinctions about blameworthiness, intentionality, and purpose. Again, though, these notions are embedded in their descriptions rather than being stated overtly.

8.2 Contributions of my research

In my thesis, I have contributed to two major academic fields: socio-legal studies and conversation analysis/ethnomethodology. Although it might be assumed that there would be little originality in studying police interviews, my research shows that the possibilities are in fact endless. By adopting an approach which combines tools and insights from EM/CA with socio-legal issues and topics, I have extended our knowledge of how police interviews with suspects are actually conducted in England. In this section, I will discuss the main contributions that my thesis has made.

Contributions to socio-legal studies

Since their development, EM and CA have contributed enormously to debates on judicial and police practices. They have done so by, amongst other things, analysing how professionals and lay people perform their actions and interact in legal and police settings (the 'missing what' of socio-legal studies and sociology of law) (Dupret et al., 2015); respecifying the connection between law-in-action and law-in-books (Dupret, 2011); showing the fundamental character of language and talk-in-interaction to understand judicial and quasi-legal proceedings (Atkinson & Drew, 1979); and better understanding how legal work is conducted through question-answer exchanges, and more specifically how police, lawyers and other legal professionals employ 'questioning' in the construction of a legal case.

Conducted within the framework of ethnomethodological conversation analysis, my research expands the body of empirical work in police interviews and interrogations. It does so by examining in fine detail the actions, activities and practices which are accomplished by officers and suspects during police interviews. It documents, for example, the descriptive

resources employed by police officers to elicit prejudicial information from suspects and to transform their lay stories into legally relevant material; and by suspects to portray an event as an accident or to blame the putative victim for the wrongful incident.

A large part of the empirical work conducted in legal institutions is concerned with the distinction between law-in-books and law-in-action. These studies oppose theory to practice and legal provisions (and concepts) to 'living law', failing to fully grasp the practical uses of law (Dupret et al., 2015). Put another way, socio-legal studies are often concerned with checking whether lawyers, police officers and other legal professionals are accomplishing what the law prescribes, rather than investigating what exactly these people are doing in the first place (Manzo, 1997).

In contrast to this dominant approach, my research shows how law-in-books orients and constrains the participants within institutional interactions. In other words, the practices, actions and activities that take place in police interviews cannot be isolated from certain legal criteria for how to gather evidence and how to prove points regarding criminal liability. This research thus illustrates Dupret et al.'s (2015) point that a more complete understanding of legal institutions (including police interviews) can be achieved through the fine-grained "description of professionals' and laypersons' orientation to, and reifications of, legal categories as they emerge from actual encounters in legal forums"(p. 4).

In my data, officers seem to have a double-task. On the one hand, they are assessing whether the evidence (the information provided within the interview) meets a threshold for being a prima facie criminal offence, and on the other hand, they are using the suspect's interview as evidence to build a case for a potential prosecution. Earlier studies on legal concepts (intentionality, culpability, causation, evidence etc.) have tended to focus only on the legal work done in the judicial stage of the criminal justice process, i.e. courts of law. My thesis, however, shows that the orientation to, and the reification of, these concepts is also visible in the earlier stages of the criminal process. Although at present police officers in England do not normally have formal legal training, they are still capable, as I have shown, of designing their questions in order to gather evidence of suspects' criminal liability and to characterise an event as a specific offence. Furthermore, suspects (who are, of course, even less likely to have formal legal training) can also be seen to orient to these concepts, for instance when they describe an incident and its circumstances as accidental in an attempt to downplay the intentionality of their actions.

In summary, my research contributes to the socio-legal studies field by examining how the ordinary business of police work is conducted through talk. It thus helps to re-specify social

and philosophical debates about criminal law by analysing the practical actions which formulate law as a social phenomenon (Travers & Manzo, 1997).

Contributions to conversation analysis and ethnomethodology

CA and EM literature on police interrogations and interviews is relatively small compared to the literature on other institutional interactions, e.g. doctor-patient[61]. My research thus adds original insights to this underdeveloped body of work, studying for the first time phenomena which have not previously been investigated from a conversational analytic perspective. For example, as far as I am aware, chapter 5 of this thesis is the first comprehensive CA study on *formulations* in police interviews with suspects, despite this phenomenon having been examined in institutional settings such as news interviews (Heritage, 1985), psychotherapy (Antaki et al., 2005; Davis, 1986), medical consultations (Ostermann & da Silva, 2009), industrial negotiations (Walker, 1995) and radio call-in programmes (Hutchby, 1996). Similar to what has been reported in these studies, formulations in police interviews are employed by one speaker (police officer) in order to highlight the most essential parts of the answers provided by the other speaker (suspect). Given that these answers are often constructed as lengthy narratives, formulations operate by selecting only what the police officer considers relevant for their institutional project, e.g. giving legal imprint to lay narratives and putting recycled information on record. My analysis thus reiterates the relevance of studying formulations for revealing both the most fundamental activities in a particular setting and how participants manage their institutional work within that setting (Drew, 2003).

The analysis reported in chapter 7 similarly contributes to the EM/CA field by providing the first conversation analytic study of counter-denunciations in police interviews. This practice was investigated by ethnomethodology in its early phase (Emerson, 1969), but it seems that no other study focusing particularly on this topic has been conducted since then. The findings in chapter 7 add to the literature on defensive techniques and accounting practices (Atkinson & Drew, 1979; Auburn, Drake, & Willig, 1995; Buttny, 1993; Emerson, 1969; Scott & Lyman, 1968) by expanding and re-evaluating our knowledge about accounts and their interactional construction.

[61] For a literature review in doctor-patient interactions in primary care consultations, see Wu (2018), chapter 4.

Finally, my thesis also contributes to Garfinkel's ethnomethodological project to create a program of *hybrid studies of work* (Garfinkel, 1986, 2002). Garfinkel envisaged these hybrid studies as the foundation for interdisciplinary networks between ethnomethodology and other disciplines (e.g. law). In order to do that, he called on researchers to become competent members in the work domains they studied, advocating for what he named the *unique adequacy requirement of methods* (Garfinkel & Wieder, 1992). Although I did not become a police officer in the course of this thesis, my training as a law undergraduate was certainly helpful in developing my socio-legal interest in the work of professionals in legal settings and in giving me a more complete understanding of criminal law and its constitutive practices. In other words, my training allowed me to apprehend how legal categories and concepts play an important role in the social actions performed in the police interview stage of the criminal justice process.

8.3 Limitations and future research:

Language obstacles

Conversation analysis relies considerably on the researcher's command over the language used in the setting under investigation. Even though my legal training helped me to understand some of the technical jargon employed by the participants, I still had to take into account both my lack of native competence in the English language and my lack of first-hand knowledge about the English justice system (what knowledge I did have was gleaned from textbooks). I have attempted to mitigate the first of these issues by seeking guidance from my supervisor, other native staff members and fellow postgraduate students. For the second issue, meanwhile, I conducted ethnographic observations in an English police station and talked to police officers about their day-to-day work. Ideally, I would have conducted my ethnographic observations at the time the interviews I had access to were being recorded, taking contemporaneous notes of details which are not captured by either video or audio recordings. Unfortunately, due to time constraints, I was unable to collect a new data corpus and had to make use of existing data.

Sample size

For some scholars, my research may seem limited by the size of my data corpus. Although theoretically, the police granted me access to 120 interviews, I was unable to work with all of them due to the degree of anonymization needed on each interview (and the cost associated with this) before they were made available to me. It would also be unfeasible for me as a non-native speaker to work with 120 interviews in the level of detail required by CA.

Given these practical constraints, I had access to a summary of these interviews, from which I selected a sample of 27 according to the following criteria: a) any tape which involved an interpreter was excluded; b) any tape in which the sound quality was poor was excluded; c) tapes were selected to cover a wide range of offences; d) preference was given to lengthy interviews, although a few shorter ones were also selected to cover multiple types of offences. If I had been able to work with the entire corpus, however, I could have identified more examples of the phenomena discussed in my analytic chapters, expanding the analysis and possibly clarifying some of my arguments. It is also conceivable, but unlikely, that the analysis of a larger corpus could have raised other issues and topics which were not salient in the interviews I examined.

Video-based research and multimodality

Another limitation of my research is the audio-only nature of the data that was used. Conversation analysis and ethnomethodology are rapidly moving towards the use of video data in order to study the interplay of talk and bodily conduct and how material resources feature in the production of social actions (Heath & Luff, 2013). A brief glimpse into any police station or courtroom reveals that participants (police officers, lawyers, judges, suspects, defendants, etc.) are involved in much more than talk-in-interaction; they gaze at each other, perform hand movements, engage with items and so on. In the last decade, several studies on multimodality in legal settings have been published (Licoppe, 2015; Licoppe & Dumoulin, 2010; Matoesian, 2012, 2013, 2015; Matoesian & Gilbert, 2018; Verdier & Licoppe, 2011). By accessing video-recorded police interviews with suspects, I would be able to investigate how multimodal resources such as material artefacts, technical devices, gestures and gaze work together with verbal communication in the accomplishment of the social actions in that setting.

In this thesis, I have mentioned that interviews with suspects in England are audio or video recorded as part of a standard police procedure for potential use in court. As such, my

initial project was to conduct a longitudinal CA study (informed by ethnography), following the 'career' of the suspect's account (Komter, 2012) across multiple stages of the criminal justice process. Unfortunately, audio or video recordings of courtroom proceedings are still not permitted in the United Kingdom, despite the fact that most of these events, whether in the Magistrates or Crown Courts, are public. Having access to that sort of data would have enabled me to understand how the interview tapes and the evidence produced therein are actually employed in courts of law: in which circumstances they are used, which parts of the tapes are played, how this evidence is disputed by defence and prosecution and how legal concepts are interactionally articulated in these different stages of the criminal process.

Written reports

Despite the mandatory procedure for audio or video recording interviews with suspects, police officers still need to complete an MG5 form (appendix B) which includes a summary of the interview. This form is provided to the defence alongside a copy of the interview as part of the disclosure process. In many summary cases, the report of the interview on the MG5 form is all that is needed, although the tapes can also be played if requested by any party. If the matter is to be heard at Crown Court, an MG15 Record Of Taped Interview (ROTI, appendix C) is completed. This document is typed by professional audio typists and then proofread and corrected by the interviewing officer. Again, a copy is provided to the defence as part of the pretrial disclosure. None of this paperwork has to be reviewed or signed by the suspect. However, once it is disclosed, its content may be challenged by the defence. Future research could be conducted by accessing these written reports and investigating how, for example, these statements are refined and how words, phrases and terms are selected in such a way as to almost transform an event. This would provide a textual analogue of the analysis of spoken interaction conducted in this thesis.

Applied and reform-oriented research

In the last decade or so, conversation analytic studies have sought to identify practical institutional problems and suggest solutions to them (Antaki, 2011). For instance, CA findings have been applied in the past to produce communication training material for doctors (Heritage, Robinson, Elliot, & Wilkes, 2007), personal advisers at JobCentre (Drew, Toerien, Irvine, & Sainsbury, 2010), emergency call handling by the police (Drew, 1998) and police officers

(Stokoe, 2013). Such studies across these different research areas share, to a greater or lesser extent, an evaluative and reform-oriented approach; they aim to uncover practical solutions to making communication in their respective areas more effective, and thereby to 'improve' these institutions by changing their practices.

In my case, I did not begin my investigation with any practical goals beyond expanding our knowledge about and understanding of police interviews with suspects in England; I did not, for example, choose my data with the aim of developing training materials for police officers or lawyers. In my view, practical goals should not be given priority before a systematic knowledge of what is practically possible is produced (Atkinson & Drew, 1979, p. 218). One of the aims of this thesis was to identify and describe a series of practices which make it possible for police officers and suspects to interact within an investigative interview, without evaluating the 'correctness' or adequacy of their actions. My approach is that sociology of law and socio-legal studies (whether EM/CA-oriented or not) should not be *designed* to assess how well practitioners do their job, or to answer moral or political questions about the work of legal practitioners in police departments, courts of law, or other legal settings.

Nevertheless, I acknowledge – indeed hope – that this thesis will reach audiences which will appreciate the professional implications and apply them themselves. It is very likely that practitioners could take and apply insights and findings from my research, particularly since police training in England and Wales is about to become more university-led and certificated[62]. Practitioners can 'visualise' the techniques that they employ, and from that, they could begin to reflect on what, from their point of view, works best or is more effective for their particular organisational goals. As a researcher, my job is to report the findings of how the institution operates, after which it is up to practitioners to decide what sorts of implications these results might have for them and their work. Although not designed to evaluate police officers' and suspects' practices, I am aware that my thesis gives practitioners access to a range of techniques used by both parties (and also by lawyers) in interaction, and allows them to reflect on their own practices and decide whether some adjustment might assist the effectiveness of their communication in such interviews. I wish them well in their almost daily management of what are difficult and complex legal interviews, which they undertake with

[62] The College of Policing in England and Wales, together with higher education partners, have recently developed the Policing Education Qualifications Framework (PEQF), a professional framework which aims to bring consistent practice in regard to the implementation, assessment and accreditation of initial police training across England and Wales (College of Policing, 2018). For that reason, several universities across the country are offering academic programmes of study that comply with the PEQF (for instance Northumbria University, see https://www.northumbria.ac.uk/business-services/engage-with-us/police-research-and-education-network/the-police-education-qualification-framework/)

immense professionalism – and I hope that observations here about their own practice and the practice of their colleagues offer them insights that they may find valuable in the future.

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Appendix A

Jefferson transcription system

[word]	Square brackets mark overlapping speech by two or more participants
underline	Underlining indicates emphasis
CAPS	Words or parts of words spoken loudly are marked in capital letters
° °	'Degree' sign encloses talk which is produced quietly
s:::	Colons show sustained or stretched sound; the more colons, the longer the sound
.hhh	In-breaths; proportionally as for colons
hhh	Out-breaths; proportionally as for colons
(word)	Text in parentheses indicate hard-to-hear utterance. Can be also blank to indicate something spoken but inaudible
cu-	Hyphens mark a cut-off word or sound
(0.6)	Numbers in parentheses measures silence in second
(.)	Micropause; hearable but too short to measure
>word<	Indicates utterances that are faster than surrounding talk
<word>	Indicates utterances that are slower than surrounding talk
latching=	'Equal' signs mark the immediate 'latching' of successive talk, whether of one or more speakers, with no interval
comma,	'Continuation' marker, speaker has not finished
question?	Question mark indicates strong rise in intonation
full stop.	Full stop marks falling, stopping intonation

Appendix B

Police Report – MG5 form

MG5

RESTRICTED (when complete)

DIRECTOR'S GUIDANCE STREAMLINED PROCESS

POLICE REPORT

URN | | | | |

Spell Check

DEFENDANT: [Insert Name]	**Anticipated Plea**	[Select Plea]
DEFENDANT: [Insert Name]	**Anticipated Plea**	[Select Plea]

1. SUMMARY OF THE KEY EVIDENCE. '**Key Evidence**' is that evidence which either alone *(i.e. the evidence of one witness)* or taken together *(e.g. a number of witnesses each of whom provide some key evidence and any key exhibits)* establishes every element of the offence to be proved and that the person charged committed the offence with the necessary criminal intent. The **summary** should set out the facts in chronological order so that it tells both the story of the offence and covers each of the **'points to prove'** in the narrative. The summary must be **balanced & fair**. List names of key witnesses and what their role is (e.g. eye witness, person providing identity.) Address and contact details of the civilian witnesses to be entered on form **MG9** (*and all witness dates to avoid on **MG10***). **State value of property stolen or damaged and what recovered**; see Section 8 for recording compensation details.

Summary of the Key Evidence:

[Insert text]

Names of Key Witnesses and their role in the case: [Insert text]

Value of property stolen or damaged and what recovered: [Insert text]

2. DEFENDANT INTERVIEW. **Identify persons present** *(i.e. the interviewing officer, defence solicitor and firm, appropriate adult, etc.).* Set out any explanation the defendant gave as to **how/why** offence happened; include any mitigation and remorse put forward. Note any special warnings given to the defendant. **Summarise the explanation of the defendant** aloud at the conclusion of the interview and note any comment made by the defendant. State if no comment made in interview or prepared statement handed over and obtain a copy. In a no comment interviews you must list the questions put to the defendant. If **CCTV** is **'Key Evidence'**, record the defendant's response/reaction if it was shown in interview, and attach a copy of CCTV.

Date: ../../20.. Location: [Insert location] Interviewing officer: [Insert name]

Interview Ref No.(s) [Insert Interview Ref No.(s)]

Persons present: [Insert name(s) role(s) and organisation/firm]

Name of Interpreter [Insert name] Language of Defendant [Insert Language]

Counter reference for relevant admissions/statements: Start: ..:.. Finish: ..:..

Summary of defendant explanation: [insert text]

CCTV shown to defendant and response: [Insert text]

☐ **Further Interview ?**

3. NON KEY EVIDENCE. List the **witnesses not summarised in Section 1** and state very briefly what they contribute e.g. additional eye witness, arresting officer, present at arrest but dealing with passenger/member of public, charging officer, officer seized CCTV etc. Address and contact details of the civilian witnesses to be entered on form **MG9**, dates to avoid on **MG10**.

Names of Non Key Witnesses and their role in the case: [Insert text]

4. VISUALLY RECORDED EVIDENCE. CCTV, photos, photocopies if any. State if '**Key Evidence**' and give a brief **summary** of what the CCTV shows *(i.e. defendant punching victim, kicking window etc.)* Attach a copy *(identifying playback format for discs).* If no visual evidence or not key evidence, give reasons. Custody suite CCTV should be unused material unless it forms part of the prosecution case.

Summary of the Key Evidence: [Insert text]

Counter reference for relevant footage: Start: ..:.. Finish: ..:..

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DIRECTOR'S GUIDANCE STREAMLINED PROCESS

5. INJURIES. A medical statement is not needed unless required to interpret x-rays, or otherwise described injuries not visible to the naked eye. A victim/eye-witness/police officer should **describe visible injuries**, photographs should be taken and attached (if none state why).

Description of injuries: [Insert text]

6. FINGERPRINT/ FORENSIC/ DRUGS EVIDENCE. E.g. Weight of drugs, number of wraps. Include details that are essential for sentencing information such as the street value and purity, if known. State if drugs field tested and by whom. State timescales for a full statement if required.

[Insert text]

7. DIP TESTING. (hit return to extend fields to accommodate additional defendants) attach DT2 for prosecutor

Defendant : [Insert Name]

Tested: [Y/N] Trigger offence: [Y/N] Result: [Neg/Pos] Drug: [Select Type]

Defendant : [Insert Name]

Tested: [Y/N] Trigger offence: [Y/N] Result: [Neg/Pos] Drug: [Select Type]

8. APPLICATION FOR COURT ORDERS AND COMPENSATION. Consider confiscation, forfeiture and destruction of drugs/weapons or forfeiture of motor vehicle on driving offences. State if Conditional Behaviour Order (CBO)/SOPO/Football banning/Restraining Order/non-molestation order required and attach **MG13** with copies for court and defence. State how much **compensation** is sought *(if an estimate say so)*, attach estimates/receipts. An address for compensation must be provided to the prosecutor on form **MG6**.

Application for Order: [Select Order]

Additional Orders: [Insert text]

Compensation details: [Insert text]

MG18 TICS	**Attached** ☐	**Pre-cons / Cautions** Must be for each defendant. State if none recorded.	**Attached** ☐	**MG6** Case File Information	**Attached** ☐

9. REPORTING OFFICER'S CERTIFICATION – In accordance with Common Law I certify to the best of my knowledge and belief that there is no relevant unused material that might reasonably assist the defence with the early preparation of their case or at a bail hearing.

Name of Reporting Officer:		**Number:**	
Signature:		**Date:**	../../20..
Email: single point of contact			

10. SUPERVISOR'S CERTIFICATION – The information in parts 1 to 8 is an accurate summary of the available evidence in this case and complies with all parts of Paragraph 11 and 12 of the DPP's Guidance for a Streamlined Process. The file has been built to the required standard.

Name of Supervisor:		**Number:**	
Signature:		**Date:**	../../20..

YOU MUST ALWAYS COMPLETE CONDITIONAL CAUTIONING SECTION BELOW

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DIRECTOR'S GUIDANCE STREAMLINED PROCESS
YOU MAY NEED TO SCROLL DOWN



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Not Suitable for Conditional Caution because [Select reason]

OR

Suitable for Conditional Caution because Custody Officer is satisfied:

☐ There is sufficient evidence to charge the offence and offender has fully admitted the offence in a PACE compliant admission;

AND

☐ Conditions are capable of rehabilitating the offender or for making reparations for the offence, and

☐ Both the circumstances of the offence and the offender make it appropriate to offer a conditional caution, and

☐ The offence is one for which a conditional caution can be offered see ANNEX A of the DPP's Guidance on Conditional Cautioning.

ATTACH DRAFT MG14

INFORMATION WHERE A CONDITIONAL CAUTION IS PROPOSED

OFFENDER'S FINANCIAL CIRCUMSTANCES

Compensation is a punishment and is meant to take priority over all but necessary living expenses. Bearing this in mind, where compensation is proposed, provide brief details of the offender's financial circumstances including any major commitments for necessaries. State if in receipt of state benefit and indicate family commitments if any. Express outgoings either as weekly or monthly commitments.

INCOME		*OUTGOINGS*	
Wages: (take home pay)		Rent / mortgage:	
Benefits:		Other essential living expenses:	
Other:			

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DIRECTOR'S GUIDANCE STREAMLINED PROCESS

DEFENCE ENGAGEMENT (only complete this section if the defendant was legally represented during the investigation)						
Did the Defence Representative have the opportunity to make representations to the Custody Sergeant as to the level of charge?	YES	☐	NO	☐		
"If not, give reasons						
Is the defendant intending to plead guilty on a 'Full facts basis'?	YES	☐	NO	☐	Not Known	☐
Will the defendant admit an alternative charge(s) or admit the offence(s) on a limited basis?	YES	☐	NO	☐	Not Known	☐
If yes, give details						

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Appendix C

Record of Taped Interview – MG15 form

RESTRICTED (when complete)

Form MG15(T)2004

RECORD OF INTERVIEW

URN | | | | |

ROTI

Person Interviewed:
Place of Interview:

Police Exhibit No:
Number of Pages: **1** of **2**

Signature of interviewing officer producing exhibit

Date of Interview:
Time commenced: Time concluded:
Duration of interview:
Audio Tape reference nos: (◆) Visual image reference nos: (◆)
Interviewer(s):
Other persons present:

Tape counter times (◆)	Person speaking	Text

Signature(s) _____
(Contemporaneous notes only)

* Not relevant for contemporaneous notes

RESTRICTED (when complete)

Tape counter times	Person speaking	Text

Signature(s) _____

(Contemporaneous notes only)

* Not relevant for contemporaneous notes