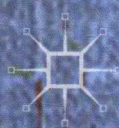# INTERPRETER-MEDIATED POLICE INTERVIEWS

A DISCOURSE-PRAGMATIC APPROACH
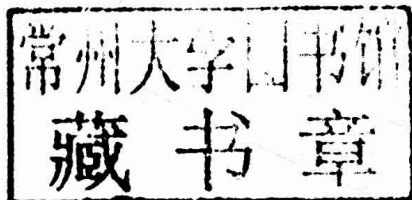
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Interpreter-mediated Police Interviews

A Discourse-Pragmatic Approach

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Acknowledgements

Transcription Conventions

Adapted from Jefferson (1984)

[	point of overlap onset
]	point at which overlap stops
=	latching (no gap or no overlap between stretches of talk)
(0.5)	elapsed time in silence by tenth of seconds
(.)	micropause of less than 0.2 seconds
<u>word</u>	stress
:	lengthening of a sound
.	falling terminal contour
,	a continuing contour
?	rising contour
° °	speech noticeably quieter than the surrounding talk
↑↓	a marked falling or rising intonation
CAPITALS	speech noticeably louder than the surrounding talk
> <	speech produced noticeably faster than the surrounding talk
< >	speech produced noticeably slower than the surrounding talk
.hh	in-breath, the number of 'h' indicating the length
hh	out-breath, the number of 'h' indicating the length
–	a halting, abrupt cutoff
( )	inaudible speech
(why/well)	varieties of transcriptionist doubt
(( ))	non-verbal activity

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Introduction: Tripartite Police Interview Interaction

Bilingual police interview discourse

There is no doubt that the police interview is an important part of the legal process. Through it, information relevant to the case is gathered and becomes part of the evidence presented and tested in court. In criminal cases, the interview is considered one of the most important methods available to police for investigating the facts (Gudjonsson, 1992). The police interview therefore has crucial dual roles: evidential and investigative (Baldwin, 1993; Haworth, 2010; Johnson, 2006).

It is also the case that, with globalisation, there has been an increase in the number of people requiring interpreter assistance when interviewed by police. This is especially the case in the USA, the UK, Australia, and EU countries where a high proportion of residents and visitors may not have a full command of the language used in the legal system.

This book aims to foster a greater understanding of the bilingual police interview process. It approaches interviews, through the lens of the discipline of sociolinguistics, as social and institutional interaction, with the interpreter as one of the interlocutors. The book focuses on the interaction dynamics of interpreter-mediated police interviews, specifically, the ways in which an interpreter's participation in the interaction impacts on the interview and on the power relationships in the lay–professional discourse of these interviews. The book positions itself in the broad research field of language and the law, fitting within a branch of research into police interview discourse as a type of legal discourse and, as such, the book looks at what happens to the genre structures and features of police interviews as a legal process, when mediated by an interpreter.

1

The police interview as a genre in adversarial legal systems

The police interviews analysed in this study were conducted in Australia and mediated by English–Japanese interpreters. Under the common law system, Australia has an adversarial legal process. Since Bennett and Feldman's (1981) description of the discourse processes of adversarial legal systems as a construction of realities, research into legal discourse – and originally applied to courtroom questioning – has drawn on the idea of story or narrative construction (Heffer, 2005; Jackson, 1991; Maley & Fahey, 1991; Snedaker, 1991). The police interview is another discourse process where realities are constructed and competing versions of events are negotiated (Berk-Seligson, 2009; Heydon, 2005; Johnson, 2006; Linell & Jönsson, 1991).

Police interviews and courtroom discourse are also intertwined as sub-genres of the legal process. Johnson (2006) highlights the significance of police interviews and their intertextuality in the legal process, demonstrating how narratives in police interviews run through the legal process from allegation to judgment, with their present, future and imagined audiences. When this kind of institutional discourse is mediated by an interpreter, it 'will be subject to further textualizations' (Johnson, 2006, p. 667). This is one of the issues discussed in this book.

Using this narrative approach, the book examines the impact of interpreter mediation on the construction of varying versions of events in the police interview as a genre, located in the context of an adversarial legal system. According to Johnson (2006), the police interview is 'a hybrid genre and discourse type' in which both lay language and professional legal language are used, and it is 'largely narrative in form with free-narrative and elicited narrative sections' (p. 669). There is a 'mixture of conversational and institutional aspects', although conversational features such as laughter and silences in some respects differ from that of ordinary conversation (Carter, 2011, p. 52). While the police interview is a sub-category of the legal genre (Gibbons, 2003; Maley, 1994), and there are many aspects and issues common to interpreter-mediated courtroom and police interview discourse, these discourses differ in terms of their setting, orientation, organisation of talk and purposes.

Sociolinguistic inquiry into interpreter-mediated police interviews

The study of interpreter-mediated police interviews as discourse belongs to a larger field of sociolinguistic research into language and the law.

Eades (2010) argues that sociolinguistic research into language use in legal contexts should take account of the reciprocal relationship between local language use and the institutional context of communication:

> To understand language usage in any specific legal context is impossible without an examination of structural institutional aspects of the legal system. On the other hand, sociolegal studies of the law can be greatly enriched by an examination of situated language practices in specific legal contexts. (p. 5)

In alignment with Eades's (2010) claim for an integrated approach, a combination of micro-analysis tools such as Conversation Analysis (hereafter CA) focusing on the turn-by-turn orientation to talk and sociolinguistic approaches which consider language use in relation to its social contexts have commonly been used in studies of police interview discourse. Many of these studies have employed micro-analysis of talk-in-interaction to identify discourse strategies used by interviewing officers and interviewees, while at the same time considering police interviews in relation to the institutional structure which informs the discourse practice (for example, Berk-Seligson, 2009; Carter, 2011; Heydon, 2005, 2012; Holt & Johnson, 2010; Johnson, 2002, 2008). Thus, the power dimension associated with the police institutional structure is one of the important contextual factors to consider in the analysis of police interviews – 'a major difference between the interview and everyday conversation stems from the inequality of status and power of the police interrogator and the suspect' (Shuy, 1998, p. 178) – as is the local orientation to talk in the specific institutional context.

The study presented in this book in principle aligns itself with these legal interaction studies, and specifically addresses the following questions: How do the interlocutors' turn-by-turn decisions on communication affect the police interview as a story construction process? What impact does interpreter mediation have in this process? How is the need to construct a convincing version of events realised and negotiated in interpreter-mediated police interviews? How do institutional constraints on police interviewing affect the interlocutors' discursive strategies for constructing their preferred versions of events? And, how does interpreter mediation affect the power of those strategies and the trajectory of interview discourse as evidence?

The present study is distinctive in that the discourse analysed has the following two key aspects: (1) the police institutional practice and (2) the mediated mode of interaction. Interpreter-mediated interaction

is a discourse type in itself with its own type-specific features. Previous explorations of these features using a CA approach have shed light upon the mechanism of dialogue-interpreting in institutional settings (Dimitrova, 1997; Müller, 1989; Roy, 2000; Wadensjö, 1998). Similarly, as we will see in the next chapter, research into police interview discourse has also significantly benefited from the insights emerging from CA analysis. The analysis and discussion of police interview interaction data in this book draws largely on CA, relying on its strengths in describing interlocutors' orientations to naturally occurring interaction in specific institutional contexts (Hutchby & Wooffitt, 1988; Psathas, 1995; Sacks et al., 1974).

The 'local' orientation of CA, in which the analysis relies exclusively on the talk itself as the context, is complemented by an approach which allows for the relationship between the language and its institutional context. The book thus also adopts an interactional sociolinguistic approach to communication (Gumperz, 1982), in which the analysis takes into account sociocultural contextual factors such as the role relationships of the participants in the specific institutional setting, and the schema on which the participants rely in making inferences and encoding messages in their interaction (Gumperz, 1982). The main focus of interactional sociolinguistics is to understand the accumulated knowledge required to achieve the goals of the institutional discourse and to ascertain the type of problems that may occur due to any gaps in that knowledge that participants bring to the interaction (Gumperz, 1982). An interactional sociolinguistics approach allows the analysis of police interview interaction discussed in this book to demonstrate how the participants, including the interpreters, achieve or struggle to achieve, the discourse co-construction process in relation to their knowledge, which includes linguistic repertoires.

Although Eades (2008) argues that an interactional sociolinguistics approach falls short in considering roles of power and associated language ideologies, it is nevertheless a powerful tool for analysing issues in intercultural communication in institutional settings, as has been shown by Eades' early work on legal communication involving indigenous Australians (Eades, 1994, 2000). More recently, an alternative with a critical perspective has been adopted by sociolinguists studying language in legal contexts (Eades, 2004, 2008). With regard to police interviews, Berk-Seligson (2009) draws on this critical interactional sociolinguistic approach to offer a powerful analysis of coerced confessions by Latino suspects in the US The analysis reveals both micro-level discursive strategies of coercion and resistance, and macro-level

social and institutional structures interacting with the micro-strategies. Interactional sociolinguistics, including Berk-Seligson's (2009) work, has also been adopted for research into interpreter-mediated interaction in institutional settings.

Researchers of interpreter-mediated interaction such as Roy (2000) and Wadensjö (1998) have also drawn on the interactional sociolinguistic approach to examine the process of meaning making and communication issues in interpreted discourse. Both Roy (2000) and Wadensjö (1998) argue for a combination of CA and an ethnographically oriented interactional sociolinguistics approach, pointing out the necessity of examining both the local organisation of talk and broader contexts for a thorough understanding of interpreter-mediated discourse in institutional settings.

An integrated approach to the discourse, drawing on CA, interactional sociolinguistics, and legal narrative theory is therefore adopted by this study in its attempt to deepen our understanding of interpreted police interviewing as a legal process.

Structure of the book

The next chapter, Chapter 1, provides the theoretical and conceptual backgrounds that locate this book in the relevant fields of research. It introduces the institutional frameworks which shape police interviews, as well as sociolinguistic perspectives on police interview discourse as a genre. An overview of research into interpreter mediation as interaction and interpreted discourse in the legal context is also presented.

In Chapter 2, details are provided of the police interview data analysed in the book and the background information relevant to the analysis, including the code of ethics by which interpreters and translators in Australia are expected to abide.

Focusing on discourse strategies for the construction of realities, Chapters 3 and 4 explore issues specific to interpreter-mediated police interviews that are associated with competing versions of events. Chapter 3 discusses the police interview discourse in the information gathering stage from the perspective of the interviewer. Reality construction processes in the tripartite interaction are analysed by focusing on questioning strategies adopted by interviewing officers.

Turning to the perspective of the interviewee, Chapter 4 focuses on the suspects' side of the story by analysing their responses to police interviewers' questions. The analysis examines the management of suspects' resistance strategies as well as their narratives in interpreter-mediated

interaction with its type-specific turn-taking organisation. In both Chapters 3 and 4, interaction and power are interwoven in the discussion of story construction processes mediated by interpreters.

Chapter 5 explores how miscommunication is managed in tripartite interview interaction. Drawing on the interaction mechanism of conversational repair, the analysis highlights aspects of miscommunication management specifically found in interpreter-mediated interaction and considers the consequences of certain types of miscommunication management in relation to the narrative construction process.

In Chapter 6, the role of silence, another important aspect of police interview discourse, is examined. The chapter addresses the complexity of decoding and encoding meanings of silence, in particular in relation to the turn-taking organisation of interpreter-mediated interviews.

Finally, in Chapter 7, the key findings of the study are synthesised, revisiting the theoretical and conceptual frameworks introduced in Chapter 1 and discussing the implications, both for the use of interpreters in the legal context and for research into interpreter-mediated legal interaction.

1
Police Interviews and Interpreter Mediation

To locate this book in the relevant fields of research, this chapter gives an overview of research into police interview discourse and interpreter-mediated legal discourse. It introduces the institutional frameworks which shape police interviews, as well as sociolinguistic perspectives on police interview discourse as a genre. The chapter then discusses research into interpreter mediation as interaction and interpreted discourse in the legal context.

1.1 The police interview as a legal process

1.1.1 Purposes of police interviews

One of the purposes of police interviews is to gather relevant facts for an investigation, and another is to confirm what investigators allege to have happened in the crime (Baldwin, 1993; Gibbons, 2003; Heydon, 2005; Hill, 2003). Interviews have been widely seen as problematic, because police interviewers commonly assume the guilt of their suspects during the questioning; they may focus more on confirming guilt or eliciting a confession than on finding out what actually happened (Baldwin, 1993; Heydon, 2005; Hill, 2003; Leo & Drizin, 2010; Shuy, 1998). In recent years, however, overtly coercive questioning tactics have come to be regarded as unacceptable, and legislative changes such as the *Police and Criminal Evidence Act* (PACE) in England and Wales in 1984 have led to the introduction in many parts of the world of official guidelines for investigative interviewing to ensure appropriate procedures and the admissibility of police interviews as evidence (Heydon, 2012; Rock, 2007).

One of the major consequences of this reform in the criminal justice system has been the introduction in 1993 of the PEACE model (see Section 1.2.1 below) of interviewing procedures into the training of

officers in police forces in England and Wales to improve police inter-view practices and to avoid later exclusion of evidence due to inap-propriate questioning. Central to this model is the cognitive interview technique developed by Gieselman et al. (1984). It involves memory-enhancing strategies and invitation to free narrative (Milne & Bull, 1999). The PEACE model has been adopted by police forces outside England and Wales (cf. Rock, 2007), but the uptake has been relatively recent and limited in Australia (Heydon, 2012). One study claims that the cognitive interview was introduced to the Victoria state police force in Australia as early as in 2000, but finds that the actual application of the approach has not been comprehensive (Buckley, 2009).

Nevertheless, it is important to note that information obtained vol-untarily from the interviewee in free narrative style statements is con-sidered the most reliable evidence in many jurisdictions (for example, Heydon, 2005; Shuy, 1998), including Australia. Thus, analysis of police interview discourse needs to take into account that the police inter-viewer's questioning orientation should be guided by this preference for voluntarily-given free narrative statements. However, if the police interviewer is under pressure to obtain a confession, especially if other evidence pointing to the suspect's guilt does not exist, there is a tension between the need to construct the police-preferred version of events and the legal preference for voluntarily offered stories (Coulthard & Johnson, 2007). The interpreter's understanding of these institutional frameworks affecting the interview could make a difference in the quality of interpreting and thus in the outcome of the investigation.

The legal requirements and principles of police interviews affect the ways in which police questioning is conducted (Carter, 2011; Haworth, 2006; Heydon, 2005; Newbury & Johnson, 2006). However, as lay per-sons, suspects may find some aspects of questioning procedures to be remote from ordinary conversation and highly puzzling, unless they are familiar with the discourse conventions and institutional require-ments of police interviews (see Rock, 2007 regarding communication of rights). This puzzlement may increase if the suspect comes from a minority cultural and/or linguistic background.

1.1.2 Police interviews as evidence

Police interviews are communicative processes, but they are also prod-ucts because they form evidence which is used and scrutinised in the trial (Haworth, 2006, 2010). This duality needs to be taken into account in analysing police interviews. In Australia and jurisdictions such as England and Wales, police interviews are video recorded and can be

presented in court, as is, as evidence. This means that statements can be confirmed in court in terms of what was said and how the statement was made. However, and importantly, the existence of a future audience and the recording of the interview process itself can affect the way in which police interviews are conducted and questioning tactics are used (Haworth, 2010; Johnson, 2006; Stokoe & Edwards, 2008). Haworth (2010) demonstrates that, unlike police interviewers who are used to pitching their discourse with a view towards future trials, suspects are often unaware of the evidential role of police interviews and could even make incriminating statements. The other consequence of the duality of police interviewing is the police interviewer's need to ensure a recording whose content and quality will be admissible in court. For example, police officers may interrupt the suspect's narrative account, to clarify for the record deictic references made by the suspect or non-verbal aspects of the communication (Stokoe, 2009).

The evidential purpose of police interviewing may affect the process of interpreter-mediated interviews in several ways. One issue is the interpreter's understanding and handling of the legal framing and its linguistic realisation; that is, their understanding of the reasons why questions are constructed and sequenced in certain ways. The interpreter's alignment or lack of it with the police interviewer's institutional orientation, whether intentional or unintentional, may affect the course of investigative interviews and consequently the outcome of the case. Another issue is that the 'interpreter's own speaking space' (Dimitrova, 1997, p. 149) is sometimes constrained, or interfered with, by the police interviewer's need to ensure admissibility of the recorded interview as evidence.

1.2 The police interview as a discourse process

1.2.1 Structure of police interviews

The police interview is a legal genre (Coulthard & Johnson, 2007; Gibbons, 2003; Johnson, 2006), and is 'a staged, goal-oriented, purposeful activity' (Martin, 1984, p. 25). In Australia, there appears to be a focus on standardised legislative elements and a common practice of inviting the interviewee to 'tell their story' before probing (Heydon, 2012). Ord et al. (2011, p. 101), writing for an Australian readership, present a model of interviewing with the following five stages: (1) legal and procedural matters; (2) suspect's account; (3) interviewer's objectives; (4) challenges; (5) interview closure. They also provide guidance on 'Preparation' and 'Evaluation' to investigators, which together with the above five stages