PhD abstracts (in alphabetical order)

‘Psychological Vulnerabilities’ of Adults with Mild Learning Disabilities: Implications for Suspects During Police Detention and Interviewing

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Key words: ‘vulnerable’ suspects, police detention, police interviewing

THESIS ABSTRACT
The Police and Criminal Evidence Act 1984 (PACE) and its accompanying guidelines introduced a special safeguard for ‘vulnerable’ suspects, such as adults with learning disabilities (sometimes known as ‘intellectual’ or ‘developmental’ disabilities), during police detention and interviewing. The stated reason for the introduction of this safeguard is that such persons may be ‘particularly prone in certain circumstances to provide information which is unreliable, misleading or self incriminating’ (Code C, Codes of Practice, Home Office, 1995) and that they are therefore ‘at risk’ of becoming involved in miscarriages of justice. However, no attempt has been made to specify why suspects with learning disabilities might be more ‘vulnerable’.

Based on Gudjonsson’s (1992) influential concept of ‘psychological vulnerabilities’, a series of experimental studies, using a range of methodologies, examines three of the many factors which may contribute to the putative ‘vulnerability’ of people with learning disabilities. There are wide variations in the performance of the participants with learning disabilities (Full Scale IQ scores ≤ 75 and attending designated ‘learning disability’ services). Nevertheless, compared with their counterparts in the general population, they:

1 have more limited understanding of the Notice to Detained Persons (NDP), the written information which provides suspects with information about the caution and legal rights. This is not the effect of their limited reading skills;
2 are more likely to be impaired in making decisions (such as asking for legal advice, confessing to a crime they did not commit) which might protect their rights;
3 are more susceptible during questioning to the personality characteristics of acquiescence and interrogative suggestibility, and, though not more likely to confabulate, recalled proportionately more incorrect information. In addition, a review of the literature suggests that people with learning disabilities may also be at increased risk of compliance.

Two practical initiatives to alleviate these ‘vulnerabilities’ are then described. First, as part of the research commissioned by the Royal Commission on Criminal Justice (1993), an attempt was made to develop a more accessible version of the information about the caution and legal rights presented orally by Custody Officers and in written form in the NDP. This involved simplifying the wording whilst retaining its legal acceptability and, since presentation also affects the ease with which material is understood and retrieved from text, making major changes to the format. Though the use of an established readability formula indicated that the revised NDP would be much easier to comprehend, stringent experimental comparison indicated that it was no more effective in improving knowledge and understanding of the material than the present (inadequate) version. Suggestions are made for a more sophisticated approach to the development and evaluation of a new NDP.

The second initiative was more successful. In order to improve the implementation of the special safeguard (the ‘special provision’ for the presence of an independent person, the ‘Appropriate Adult’, during interviewing and other formal procedures), an attempt was made to encourage ‘vulnerable’ suspects, including people with mild learning disabilities, to identify themselves. After an experimental study, which suggested that a standard set of statements, each of which was followed by a closed ‘yes’/‘no’ question (see Figure 1), was effective in encouraging self-identification among people who were significantly intellectually disadvantaged or who had reading problems, a pilot study was carried out in a police station.

The introduction of the measure significantly increased the proportion of adult suspects for whom the police implemented the special safeguard. Subsequently, with only minor modifications, it was introduced formally into the Custody Records of the Metropolitan Police Service (as Form 57M) in 1998. Anecdotally, it appears to be helpful. Nevertheless, as is discussed, the proportion of suspects receiving the special safeguard still falls far short of the estimated proportion who are ‘vulnerable’. Possible reasons for this finding, and other strategies for improving the implementation of the ‘special provision’, are discussed.
The practical implications of the studies for the detention and interviewing both of suspects with mild learning disabilities and their peers in the general population are then considered in some detail, and Gudjonsson’s (1992 et seq.) concept of ‘psychological vulnerabilities’ is revisited. It is argued that positioning this concept within a ‘capacity-based’ framework, in which ‘psychological vulnerabilities’ are conceptualized as the individual factors which may, in certain situations, impair suspects’ ability or ‘capacity’ to make valid decisions protecting their rights, is advantageous. First, it is consistent with the approach taken by the courts, rejecting the notion that ‘vulnerability’ can be established by predetermined individual criteria (such as a particular suggestibility score or level of intellectual ability), rather than the nature and circumstances of the particular case. Moreover, it accords with case law and legislation in

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**Figure 1** Final version of the measure to encourage self-identification by ‘vulnerable’ adult suspects

There is some special help the police must give to people who have reading problems or who went to special school. Do you need this special help?

Yes ☐ No ☐

The police must also give special help to people who have learning difficulties or learning disabilities (mental handicap). Do you need this special help?

Yes ☐ No ☐

The police must also give special help to people who have a mental health problem or mental illness. Do you need this special help?

Yes ☐ No ☐

Do you need this special help for any other reason?

Yes ☐ No ☐

If yes, for what reason?:

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The term “special help” in the questions on this page refers to the provision for an “appropriate adult”. Please explain the role of the “appropriate adult”.

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the UK which has adopted a capacity-based approach to other areas of legally significant decision-making (for example, consent to treatment). Second, the use of a ‘capacity-based’ framework encourages more detailed exploration of the psychological processes which may contribute to the marked differences in decision-making ability found between individuals within both the ‘general population’ and ‘learning disabilities’ groups. Research from this perspective might be helpful in devising further strategies to minimize the likelihood that men and women with learning disabilities will be ‘vulnerable’ as suspects.

REFERENCES
Speaking up in Court: Repair and Powerless Language in New Zealand Courtrooms

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THESIS ABSTRACT

Law courts purport to be seats of justice, yet there is constant debate about the even-handedness of that justice and ordinary people’s access to it. This thesis reports on a study of seven criminal jury hearings in the District Court in Auckland, New Zealand, which attempted to investigate what is commonly perceived to be miscommunication in court. A combination of ethnography of speaking and conversation analysis was used, as well as functional and interactional analyses, to determine whether miscommunication was occurring and whether it did so along inter-ethnic, gender, power and professional/lay dimensions. The data (a corpus of over 90,000 words) were made up of the examination phases of the seven trials (examination-in-chief, cross-examination and re-examination), which I tape-recorded and transcribed.

The study focused on repair (as defined in conversation analysis) and various phenomena which had been identified previously (O’Barr and Atkins 1980) as characteristic of powerless language (that is, the speech used by those in subordinate positions to their social superiors). These phenomena included hesitations, hedges, intensifiers, witnesses asking questions, tag questions, high rising terminal intonation, polite terms, terms of address and well. The results of the analysis lead to two interesting broad conclusions, one relating to repair and the other to powerless language, each of which I outline briefly here.

Turning first to repair, traditionally linguists have considered this as a means of dealing with problems. As such, repair itself (or the need for it) has often been thought of as a problem or as evidence of a problem in the conversation. If miscommunication were occurring, repair sequences are where it might be found. I therefore looked at all instances of repair in the data, both those which were resolved successfully and quickly and those which were not. Part of the analysis concerned what I called extended repair sequences, which occurred when the more usual three or four turn repair sequence did not resolve an issue. Such sequences appear to be
characteristic of courtroom language patterns and, far from being a problem, contribute productively to the process in hand. As far as these seven hearings are concerned, it is evident that repair was used as a highly effective interactional resource in the process of ‘coming to an understanding’ (Weigand 1999), which appears to me to be the basis of courtroom interaction. The cause of the problem which lead to the repair sequence may or may not have been identified accurately by the participants, but, in most instances, the repair techniques appeared to lead to a satisfactory conclusion for the issues concerned.

Moving now to powerless language style, the study also calls this notion into question. While it is true that many researchers have found that people evaluate powerless language negatively, this study finds that a) the features which have been said to form the powerless style in English are not used only by the powerless people in these hearings and b) these features cannot always or necessarily be said to operate in a powerless manner during the hearings.

In order to arrive at this conclusion, the features listed above as characteristic of powerless style were counted and rates determined for each of the 50 participants in the study. A broad brush examination confirmed that the features were indeed used more often by the defendants and witnesses than by the judges and lawyers. However, a closer look at each feature, including consideration of its use within each participant group (role), revealed a number of interesting differences, which calls into question reliance on a broad brush approach.

Looking at hesitations (um, ah, er) provides an example. Predictably, defendants used these more frequently than the participants in the other roles (once in 49 words), although witnesses used them only slightly less frequently (1:50). Equally predictably, prosecuting counsel used this feature the least often (1:239) and police witnesses (that is, police who gave evidence for the prosecution) produced them at a rate of 1:137. However, why did defence counsel, with a rate of 1:181, use them so much more often than their prosecution counterparts? There cannot be said to be a power difference between them in court. Further, why did the judges, the most powerful people in court, use hesitations so much more frequently than one would expect from that group? Their rate, at 1:116, was closer to the defendants and witnesses than either group of counsel and higher than the police witnesses. Clearly, social power or powerlessness cannot explain the use of this feature. Similar kinds of result were repeated for the other features investigated in the study and similar conclusions drawn. When functional considerations were added to the analysis (revealing such possibilities as mitigation, confrontation, etc.), role turned out to be a much more salient factor than societal factors; goals, both individual and those connected to roles in court, provide a more powerful explanation, capable of accounting for differences within and between hearings and their participants.
The analysis produced a more detailed account of the features and their use than previous studies had achieved, partly because it considered all participants in court and partly because it considered functional aspects. The results show that the notion of powerless language style is highly questionable. This in turn means that further study is necessary into how people make judgements on language use and what role such judgements play in the decisions of juries.

In summary, this study has concluded that, at least in the seven hearings considered, great efforts were made, by both lawyers and judges, to ensure that misunderstandings were resolved, in order that the court ‘came to an understanding’. This is not to say that miscommunication did not occur, but rather that, if it did so, it was not transparent in the language. Normal conversational linguistic techniques were used effectively to resolve any misunderstandings which did become evident. It is unlikely that language features per se encode matters of power and we need to look at roles and goals to provide explanations of language use and power dynamics rather than believing that these features encode social relations.

REFERENCES

Pragmatic Meaning in Court Interpreting: An Empirical Study of Additions in Consecutively-Interpreted Question-Answer Dialogues

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THESIS ABSTRACT

Introduction
My PhD thesis presents an investigation of the interpreting process in criminal proceedings in Danish district courts, which are courts of first
instance. The data are question-answer dialogues, featuring the questioning of defendants and witnesses by judges, prosecutors and defence counsels. The languages involved are Danish and English, and the mode of interpreting is the consecutive dialogue. The court interpreters are authorized interpreters and thus fully qualified and competent professionals.

The investigation takes as its point of departure the conflict between the official perception of the court interpreter as a mere translating device, simply transferring language products from one language to another, and the reality of the interpreting situation in the courtroom in which meaning is subject to constant negotiation. Throughout the thesis, I argue that the official perception is incorrect, and that court interpreters play a much more active part in proceedings than is generally expected.

Hypotheses
The investigation was based on the following hypotheses: (1) the actual behaviour of court interpreters will show evidence of a preoccupation with pragmatics, that is, with building and conveying a mental model of speaker meaning; (2) as a result of this preoccupation, the interpreters’ target texts will contain a variety of additions.

In other words, I hypothesized that court interpreters’ primary objective is successful interaction. The interpreters are aware that this objective may only be reached if participants understand each other fully. They instinctively judge that end receivers who are unfamiliar with the context (linguistic and/or situational) of the interaction will not be able to infer speaker meaning without assistance, so they adopt a strategy for conveying source texts which will ensure that a speaker’s communicative intention, and not merely his words, is available, or more easily available, to end receivers.

Method
In order to test the hypotheses, I recorded and transcribed consecutively-interpreted question-answer dialogues in two trials, a mock trial and an authentic trial. I then conducted a source-text/target-text comparison of the collected data, which identified a variety of additions in the court interpreters’ target texts. I registered and categorized the identified additions according to their impact on the semantic and/or pragmatic content of the source text, which established the categories and subcategories illustrated in Figure 1.

Next, I applied Grice’s (1975) theory of conversational implicature to the investigated interaction. I set up a basic model accounting for implicature in the interaction, and I presented and discussed eight strategies that court interpreters may be assumed to resort to when confronted with implicature in original utterances. I also discussed the implications of the inference process for court interpreters, applying A. Bell’s (1984) notion
Finally, matching Grice’s theory and the various assumptions to the established categories and subcategories, I discussed the court interpreters’ motives for including the identified additions in their target texts.

**Results**

The first section in Figure 1 presents additions which were judged to have no impact. These were identified as features typical of normal conversation, and their presence in the interpreters’ target texts was presumed to be attributed to the special nature of the interpreting process, requiring fast, almost instantaneous production and understanding in two different languages. Consequently, these additions were not considered relevant for the purpose of the investigation, but were identified and categorized purely for elimination purposes.

The second section of Figure 1 presents additions with minimal impact. The first three subcategories, Repetitions$p$, Fillers$p$, Paralinguistics$p$, were

<table>
<thead>
<tr>
<th>Additions with no impact on the semantic and/or pragmatic content of the source text</th>
<th>Repetitions</th>
<th>Silent pauses</th>
<th>Voice-filled pauses</th>
<th>False Starts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additions with minimal impact on the semantic and/or pragmatic content of the source text</td>
<td>Repetitions$_p$</td>
<td>Fillers$_p$</td>
<td>Paralinguistics$_p$</td>
<td>Explicating additions</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Obvious-information additions</td>
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<td>Connective additions</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td>Additions explicating non-verbal information (mock data)/ explicating culture-bound information (authentic data)</td>
</tr>
<tr>
<td>Additions with significant impact on the semantic and/or pragmatic content of the source text</td>
<td>Emphasizing additions</td>
<td>Down-toning additions</td>
<td>New-information additions</td>
<td></td>
</tr>
</tbody>
</table>

This model of additions was inspired by Schjoldager’s 1996 model of target-text/source-text relations.

**Figure 1** Additions identified in the collected data of audience design.
judged to have potential impact only (therefore marked with a p). Their presence was also presumed to be attributed to the special nature of the interpreting process, rather than to any specific motive on the part of the interpreters. However, I argued that Explicating additions, which explicitly expressed information implicitly present in the context of the source text, and Elaborating additions, which elaborated on items that had already been rendered once in an interpreter’s target text, were included for the specific purpose of making a speaker’s intention available, or more easily available, to an end receiver. In other words, the additions were triggered by the interpreters’ instinctive judgement of the inferencing ability of end receivers who were unfamiliar with the context of the interaction.

The third section of Figure 1 introduces additions which were judged to have significant impact. This main category of additions either explicitly or implicitly introduced information into the interaction for the first time. The subcategory of Emphasizing additions served to increase the force of the original utterance, or part of the utterance, whereas the subcategory of Down-toning additions had a reverse function. I argued that these subcategories were included for the specific purpose of directing end receivers’ attention to information which was implicitly present in the context of the original utterance and which had to be inferred (Emphasizing additions) or verified (Down-toning additions) in order for speaker meaning to be available. So, the additions were triggered by the interpreters’ instinctive judgement that end receivers would not be able to spot the presence of implicit information, but would be able to infer it once it was identified for them.

I was not able to explain the last subcategory of additions with significant impact, New-information additions, by reference to the interpreters’ instinctive judgement of end receivers’ ability to retrieve speaker meaning. However, I argued that the fact that the interpreters occasionally selected representations of source texts which did not appear to match what could be derived from the originals could likewise be explained by reference to their preoccupation with building and conveying a mental model of speaker meaning.

So, following my discussion of interpreter motives, I was able to conclude that the actual behaviour of the court interpreters and my analysis of that behaviour did indeed support the two initial hypotheses. This conclusion was supported by the various examples of implicature found in the data, since these were generally conveyed by explicating all or part of the generated implicature. It was also supported by my observations that the interpreters tended to correct grammatical errors, complete fragmented source texts, and engage in dialogue with foreign participants who requested repetition or clarification of source texts in Danish. Thus, the court interpreters in my investigation did not function as passive translation devices but played an active part in the process of negotiating meaning.
REFERENCES

Imaginary Trialogues: Conceptual Blending and Fictive Interaction in Criminal Courts

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THESIS ABSTRACT

The Western trial can be understood as a sum of pre-established and highly regulated interactional events. This dissertation suggests that such fixed interactional patterns motivate the emergence of what I call fictive interaction, that is, an invisible channel of communication underlying the factual, observable interaction between participants.

More generally, this work investigates the way in which the common structure of ordinary face-to-face interaction – in legal as well as non-legal settings – may help to model: a) the conceptualization of experience; b) language structure; and c) language use. The focus is thus on the intersection of language, interaction and cognition. Different levels are explored: the situation of communication (for example, the trial); the individual interaction (for example, cross-examination); the discourse content (for example, legal metaphors); the sentence (for example, rhetorical questions); the clause (for example, interrogatives in legal definitions); the phrase (for example, phrasal compounds); and the lexical item (for example, the name of a law). This thesis is based on an ethnographic case study of a high-profile California murder trial, a fragment of which appears transcribed and commented in a 35-page appendix. The data are
enriched with television recordings of the work of the prosecutor and his colleagues in that murder case. For generalization purposes, other jury trials in the United States and Spain were studied.

The dissertation first describes the general cognitive mechanisms underlying legal and non-legal language and communication, then presents the interactional dynamics of the courtroom, and subsequently discusses the way in which the conceptualization of the court's interactional channels may model conceptual, communicative, and linguistic structures in litigation. Chapter 1 introduces the cognitive linguistics assumption that much of natural thought and language relies on mental imagery and fictivity, that is, on the departure from the direct or objective conceptualization and description of actuality. I then introduce and define fictive interaction as a type of ‘fictive reality’ that is equally critical in the understanding of cognition and language structure and use – in and outside the courtroom – as factual interaction. The thesis makes a call to merging cognitive semantics, communicative pragmatics and ethnography in the study of courtroom interaction. Chapter 2 applies this interdisciplinary approach by analysing the cognitive semantics of discourse data from Spanish and American trials. One of my claims is that the study of fictivity and cognition can help us better understand law and litigation.

Chapter 3 discusses the crucial role of verbal communication in the court and the different interactional patterns of Western litigation. It is suggested that in the adversary system communication is generally non-cooperative, since a trial is not so much ‘a search for the truth’ as ‘a battle for sympathy’. This idea is embodied in a type of fictive interaction said to schematically represent the basic interactional channel and participant structure of Western jury trials (see Figure 1).

![Figure 1](Imaginary trialogue)
This involves: (i) the communicator who wants to convince (that is, the litigator); (ii) the evaluator to be convinced (that is, the judge and/or the jury); and (iii) the adversary to be refuted (that is, the opposed party). Such an ‘imaginary trialogue’ is claimed to operate independently of the courtroom’s factual, observable interactional structure. Regardless of their factual addressee(s), the words of litigators are typically meant to persuade the ultimate evaluator of their theory of the case, and by so doing, counter-attack their opponent, whom they cannot address directly during trial.

Chapter 4 tackles the frequent occurrence and persuasive power of imaginary trialogues in litigation. The overall socio-cultural event of the trial is suggested to be conceptualized by participants as a fictive debate between the two parties to convince the jury. Similarly, trial communicative sequences (for example, direct-, cross-examination; closing argument, closing argument rebuttal) are construed as imaginary trialogues in which a set of question-answer interactions or monologues are conceptualized as one or a series of conversational turns in a fictive ‘war of words’ between the two parties for the sake of the jury. Also, each (apparent) legal monologue (that is, opening statement, closing argument) or dialogue (that is, witness testimony) is conceptually a trialogue, since it appears as a counter-argument to a prior or expected future argument by the other side and is ultimately addressed towards the evaluator(s). Finally, legal discourse often uses metaphorical images of imaginary trialogues, such as that of a (deceased) murder victim testifying before the jury against the defendant’s claims.

Chapter 5 examines fictive interaction 1 (with or without a triadic structure) in language and language use. The claim is that the pattern of factual face-to-face interaction can model fictive interaction at the levels of the sentence, the clause, the phrase, and the lexical item. Examples of sentence-level fictive interactions prompting an imaginary trialogue are rhetorical questions (for example, ‘*Why would she let him do that*?’, p. 184) and leading questions overtly answered by the utterer (for example, ‘*Is the defendant that fraudulent*? Well, yeah’, p. 153). It is shown that rhetorical questions and other interactional structures can appear as clauses and thus that imaginary trialogues can be embedded (for example, ‘This means that *how could this person ever do this!*’, p. 197; ‘Express malice means *was it an intentional killing*?’, p. 198). Fictive interaction constituents – including trialogic ones – can also function as noun modifiers, sharing thereby syntactic features with phrases (for example, ‘top “*not guilty*” lawyers’, p. 213, ‘a *who’s buried in Grant’s tomb* argument’, p. 214). Finally, the internal structure of a lexical item can prompt some sort of (dialogic or trialogic) interaction between fictive participants (for example, ‘a *whodunit*’, ‘the *Three Strikes and You’re Out*’, p. 224).
The thesis concludes that: a) courtroom interaction can be regarded as the mode in which interactional, (sub)cultural and cognitive patterns are manifested; b) litigation is a triadic ‘war of words’ in which the evaluator’s sympathy towards the victim vs. the defendant is negotiated; c) fictive interaction plays a crucial role in the conceptualization of experience and the organization of language structure and use both in legal and in non-legal settings; and d) imaginary trialogues, that is, fictive interaction with trialogic structure, can profitably be used by litigators as argumentative devices, since they map the external socio-cultural structure of the courtroom.