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**Establishing intellectually impaired victims' understanding about 'truth' and 'lies':
Police interview guidance and practice in cases of sexual assault**

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Abstract

Effective police interviews are central to the justice process for sexual assault victims, but little is known about actual communication between police officers and witnesses, nor about the alignment between guidance and real practice. This study investigated how police officers, in formal interviews, follow 'best evidence' guidance to obtain victims' demonstrable understandings of 'truth and lies'. We conducted qualitative conversation analysis of 20 evidentiary interviews between police officers and victims who were 'vulnerable' adults, or children. Analysis revealed that interviewers initiated conversation about truth and lies inappropriately in three ways: 1) by eliciting *confirmations* rather than *demonstrations* of understanding; 2) by eliciting *multiple* demonstrations and confirmations of understanding, or 3) by *re-introducing* 'truth and lies' conversations at incorrect points in the interview. Both 2) and 3) imply prior or forthcoming dishonesty on the part of the victim. In the context of encouraging victims to report sexual assault, and achieve justice, the paper

reveals potential communicative barriers in which victims – or their evidence – may be discredited right at the start of the process.

KEYWORDS: *Sexual assault, rape, police interviews, communication guidance, victims, intellectual impairment*

Introduction

When police deal with ‘vulnerable’ people (children, or adults with intellectual impairments) who may have been sexual assaulted or raped, they are meant to take extra care in their formal, recorded interviews. ‘Best practice’ guidelines recommend that they establish that alleged victims understand what it means to report their experiences honestly and understand, as the guidelines put it, the difference between ‘truth and lies’. This article examines the guidelines with respect to how interviewers ought to establish such understandings, and what, in fact, actually happens.

Sexual assault and the social problem of rape reporting

The interviews we analyse take place in a broader cultural context of rape underreporting and even lower rates of charge and conviction (see Krahé, 2016). We know that the causes of underreporting and, subsequently, low prosecution and conviction rates, include the prevalence of ‘rape myth’ – “prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists” (Burt, 1980, p. 217) – pervasive in public and private discourse (Armstrong, Hull and Saunders 2015). We also know that rape myth pervades legal institutions – the police and courts – in the way alleged victims are characterized, interviewed and cross-examined, and in the way cases are summarized by judges (e.g., Ehrlich 2001; Drew 1992; Temkin, Gray and Barrett, 2018). Indeed, false assumptions about rape and sexual assault may emerge at the outset of any legal process, in initial police interviews, as MacLeod (2010) graphically illustrates in a study of recordings of interviews with a number of women alleging rape. Achieving justice in cases of sexual assault is a challenge for criminal justice systems in the battle against attrition, where the majority of reported rape cases fail to reach trial (Burman, Kelly and Lovett 2009). In the UK, the Crown Prosecution

Service (2016) reports that it is now prosecuting and convicting a record number of sexual offence cases than in any previous year, but there remains a huge gap in experienced versus recorded sexual offences in England and Wales.

The first stage in obtaining justice is *reporting* the offence to the authorities. In the UK, the police act as ‘gatekeepers’ to justice for victims; a crime is reported, police then gather evidence and decide whether or not to ‘detect’. The reporting and evidence gathering stage is therefore highly consequential to justice being obtained. Due to the nature of sexual offences, victims face numerous barriers to disclosure; a non-exhaustive list of these barriers includes “a fear of being disbelieved; fear of retribution by the offender or others connected to the offender; feelings of shame; embarrassment; living in an isolated environment; fear of being blamed; lack of confidence or trust in the legal system; and lack of confidence or trust in police” (Taylor and Gassner 2010: 241).

As noted previously, barriers to disclosure are linked to rape myth culture (Lonsway and Fitzgerald 1994; see also Hayes, Lorenz and Bell 2013), which trivialises sex offences and shifts blame onto the victim (Burt 1980). The construct of ‘real rape’ – that sexual attackers are unknown to their victim, use a weapon and inflict serious injury (Estrich 1987) – also works to erode the perceived severity of sexual offences committed by someone known to the victim. This can leave victims unsure about the status of their assault and questioning whether or not others will view it as rape (Daly and Bouhours 2010). Furthermore, old and new media fuel rape myths by disproportionality covering stories such as false rape allegations (see Armstrong, Hull and Saunders 2015). Police, judges, juries, and members of the general public are all exposed to rape myths which, in turn, contribute to negative attitudes towards victims (CWCJS, 2009) and inform police decision-making around credibility of a witness (Jordan 2004; Parratt and Pina 2017).

Sexual assault and intellectual impairment

Research suggests that vulnerable victims or witnesses, particularly those with intellectual impairment or disability, are more likely to be sexually abused or assaulted than those without (e.g., McEachern 2012; Petersilia 2001). Yet adults with intellectual disability are even less likely to speak out about their abuse (Brown et. al. 1995). Of those that do, their cases rarely appear in court (Kebbell, Hatton, Johnson and O’Kelly 2001). Adult victims of rape with learning disabilities or psychiatric problems are, then, over-represented in terms of cases that ‘drop out’ of the system (Lea, Lanvers and Shaw 2003).

There are a variety of reasons why vulnerable witnesses face additional challenges in obtaining justice, to those without vulnerability (Kebbell and Hatton 1999). Some research has shown that these witnesses may have memory limitations, be more suggestible, may yield more to leading questions, and may distort or fabricate material when there are gaps in knowledge (Clare and Gudjonsson 1993; Gudjonsson and Henry 2003). While the implication is that their evidence is less robust than that given by people without such challenges, individuals with intellectual disabilities may be *perceived* as unreliable witnesses (Beail 2002). Yet these witnesses have also been found to be perceived by jurors as more credible, honest and less capable of fabricating a sexual abuse accusation than those without disability (Bottoms et. al. 2003).

Police interviewing in sexual assault cases with vulnerable witnesses

For victims of sexual assault to achieve justice, they must be interviewed by police, as their statements form crucial evidence in court (Kebbell and Milne 1998). While it is clearly essential to obtain complete and accurate accounts of the incident from victims (Cederborg and Lamb 2008), obtaining such evidence from victims with intellectual disabilities is a recognised challenge for the police. In 2001, in attempt to tackle such challenges, the Youth

Justice and Criminal Evidence Act introduced special measures for vulnerable victims and witnesses to enable the best conditions to provide evidence (see Cooke and Davies 2001).

The document *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable and Intimidated Witnesses* ('ABE') provides guidance on the implementation of special measures, specifically identifying the needs of the vulnerable witness or victim, planning and preparing for the interview, conducting the interview, and preparing victims for the court process. While ABE is not enforced legally, it is used widely, and urges best practice for those conducting video-recorded interviews with vulnerable adults and children (Bull 2010).

One of the challenges for police officers is to translate ABE, and other guidance for interviewing witnesses, into practice. Many researchers have shown that, when practitioners attempt to turn written guidance, training materials or scripted questions into actual interaction, the ensuing practices vary from those idealised versions (e.g., Houtkoop-Steenstra and Antaki 1997; Maynard and Schaeffer 2006; Stokoe 2013). We know very little about how ABE guidance is deployed in real-time interviews, and whether or not it hinders or facilitates evidence-giving in cases of sexual assault. Therefore, this paper examines interviews with vulnerable victims, to show *if*, and *how*, police officers align their practice to ABE guidelines. We focus specifically on one requirement of the guidance: 'Oaths and the importance of telling the truth'. In this phase, police officers assess whether or not witnesses are able to differentiate between, and understand the importance of, telling the truth and telling a lie. We will show in our analysis that this particular requirement generates problems for evidence-gathering and for victim credibility. We consider the interactional practices involved in this task, and reveal the implications its realization may have in the quest for justice for this group.

Data and method

The data come from a wider project examining police interviews with vulnerable witnesses, in collaboration with a UK police force. Following data protection and police and university research ethics, we were provided with 20 archived video recorded police-witness interviews. Of the 20, 18 were usable. We excluded one because it was incomplete, and one because we did not have access to appropriate language translation services. We anonymized the recordings aurally and visually on site at the police station prior to removal and storage on an encrypted hard drive. All names, including place names have been replaced by pseudonyms. Two men and sixteen women interviewees were aged between 12 and 35. We note that the term ‘witnesses’ is the term used in the ABE guidance to refer to the alleged victims. We were provided with brief details about the intellectual impairments of witnesses (e.g., ‘Autism’, ‘learning difficulties’) and the offence and the outcome for each case (e.g., ‘Filed undetected, insufficient evidence, no CPS’). Out of 18 cases, only three resulted in a charge being made, and, of these, two perpetrators were imprisoned and one was found not guilty. The interviews featured the ‘significant’ or ‘key’ witness, who, under the ABE guidelines, should usually be *video*-recorded to increase the quality of information. For vulnerable or intimidated witnesses, an application can be made for video-recorded interviews to be used as ‘evidence-in-chief’ in the court room, along with other options for special measures (e.g., live video link). Therefore, the recorded conversations are highly consequential for the pursuit of the case through the criminal justice system.

The data were anonymized and then transcribed using Jefferson’s (2004) system for conversation analysis (CA). CA has been used extensively to examine how practitioners deliver their services in a wide variety of environments (see Antaki 2011). CA examines the overall structure of interaction, in terms of its constituent actions, as well as the specifics of,

and patterns in, turn design (how a turn of talk is designed to do something), turn-taking (who talks when), action formation (how actions are formed within and across turns of talk), and sequence organization (how actions are organized in a sequence) (see Schegloff 2007). For the purposes of the current paper, we examined opening sequences in which officers introduced the truth/lies project, and show how communication guidelines were (not) translated into real talk.

We cannot assume any witness communication difficulties, especially based on the limited description of the intellectual impairment of the witnesses. An intermediary is used with 4 of our 18 interviews; their role is to assist with communication where there might be issues in identifying and reporting a problematic question. We indicate in the transcript when an intermediary is actively participating to facilitate the interview.

Analysis

ABE guidelines state that not all vulnerable adult witnesses should be asked about truth and lies. When questions are asked, certain witnesses should *demonstrate* their understanding. The ABE guidelines are presented for the reader:

“Certain Vulnerable Adult Witnesses

3.22 In cases where discussion of truth and lies is appropriate, it is important to demonstrate that the witness understands the difference between the two. The witness could be asked to give examples of truth and lies. If this is not possible, the interviewer can ask some questions about this difference. If such questions are asked, they should follow the guidance set out elsewhere on styles of questioning, and focus on the intention to deceive rather than mere mistakes. After such questions, it is appropriate to conclude with a statement like: ‘Please tell me all you can remember

about what happened. Don't make anything up or leave anything out. It is very important to tell the truth.'" (U.K. Ministry of Justice, 2011, p.73)

In half of the interviews there was no explicit exchange about honesty or truth telling. For those that did include it, we analyse:

1. How officers *elicit from witnesses a demonstration* of the difference between a truth and a lie;
2. How they *formulate* the difference, or a previous conversation about difference that is not recorded, for witnesses to *confirm*;
3. How they pursue the witnesses' understanding in an interrogative manner via *multiple demonstrations and confirmations*; and,
4. How witnesses and police officers *reintroduce* truth telling episodes in other, inappropriate, parts of the interview, and the consequences of doing so. According to ABE, 'oaths and the importance of telling the truth', which we refer to as 'truth and lies sequences', should follow formal preliminaries about the recording process and who is present, but not occur elsewhere.

1. Eliciting a demonstration of the difference between a truth and a lie

In Extract 1, we present an example of the check on understanding of 'truth' and 'lies' being accomplished appropriately, and aligned to the guidance in ABE, in which W *demonstrates* their understanding. In each extract, P is the interviewing officer, and W is the witness.

Extract 1: Interview 1

- 1 P: Now you know (0.7) that it's important (0.7)
2 to tell the truth in here.
3 (1.6)
4 P: And we asked you earlier (0.5) what that means.

5 (0.8)
6 P: Can you tell me what it means.
7 (1.2)
8 P: To tell the truth.
9 (0.4)
10 W: Tell the truth means you need to be honest.
11 (1)
12 P: °Yeah.°
13 (1.1)
14 W: 'Cause if you're not honest and you lie, you
15 get found out.
16 (0.9)
17 W: And you can get into trouble or get someone
18 else into trouble.
19 (1.0)
20 P: That's it. That's exactly what we've spoke about.
21 (0.5)
22 P: And I'm happy (0.6) that you understand that.
23 (0.9)
24 P: °Okay.°

At line 4 it is revealed that the witness has been asked earlier (outside of the formal recorded interview) what 'that' means; indexing 'tell the truth'. The police officer requests that the witness formulate verbally what "it means", which is further expanded at line 8 "to tell the truth" after a gap in which W does not respond. Across several turns (lines 10-18), the witness formulates their understanding of what it means to tell the truth. Unprompted by P, W expands her initial response ("Tell the truth means you need to be honest") to describe what might happen if "you tell a lie" (lines 14-18). This accomplishes the goal of eliciting, for the record, a demonstration of the witnesses' understanding; note P's positive assessment (Lines 20-22). There is no further expansion and P closes the sequence.

Having presented an example of how interviewers elicit demonstrations that witnesses understand the difference between 'truth and lies' appropriately, aligned with ABE guidance, we move on to examine how deviation from the guidelines can happen.

2. *Asking witnesses for brief confirmations of interviewer-formulated demonstrations*

In Extract 2, the interviewer introduces the 'truth and lies' conversation in a different way.

Extract 2: Interview 14

1 P: .hh And I just want to confirm that we
2 spoke about being truthful .hhh in the
3 interview and how (0.7) uhm how important it
4 is to tell the truth during the interview.
5 .hhh Can you just confirm for us that we did
6 cover that before we came into here.
7 (0.4)
8 W: Yeah.
9 P: Yeah. Okay, that's lovely.=I just have to
10 get it confirmed on the tape that's all. Okay.

In contrast to Extract 1, P formulates a summary (lines 1-4) of a conversation that the police officer and the witness have had prior to the video recorded interview, for W to confirm (line 8). This informs any future audience of the recording that it has been deemed appropriate to have this conversation around truth telling. But what is not present is a witness *demonstration* of the difference between a truth and a lie, or an understanding of the implications of lying. P provides an account for requiring an on-the-record confirmation (“I just have to get it confirmed for the tape, that’s all”). The repeated use of ‘just’ (lines 1, 5 and 9) minimises the importance of this action and its impact on the progression of the interview.

Extract 2 is an example of how officers may deviate from the guidelines, by eliciting a *confirmation* rather than a *demonstration* of understanding from witnesses. The same thing occurs in police interviews with suspects, in which officers may elicit demonstrations of suspects’ understandings of their legal rights, or formulate their rights for suspects to confirm (Stokoe 2013). In Extract 2, P has translated the ABE guidelines into a different action than we saw in Extract 1. While the interviewee has co-operated to confirm that they will tell the truth, it is done briefly as a formality for the tape. Extract 3 is similar; RI is a ‘Registered Intermediary’ who is present to support the witness in providing as complete, accurate and coherent account of the event as possible. The use of an intermediary is appropriate when the person being interviewed may be unable to recognise a problematic question, or reluctant to say so to a person in a position of authority (CPS, 2017).

Extract 3: Interview 18

1 P: Right, w-we've already talked a little bit
2 about what we're gonna (0.2) sort of do
3 here, here today in our, in our talk.
4 (0.4)
5 P: U:hm (0.3) we've discussed uhm (0.5) the
6 difference between a truth and a lie.
7 (0.4)
8 P: And we've discussed that we're happy that
9 everything we're gonna talk about today is
10 gonna be the truth. That I'm gonna tell you
11 the truth (0.5) a-and that you're gonna tell
12 me the truth. Are you happy with that
13 Celeste.
14 W: ((Nods))
15 (1.0)
16 RI: Yeah.
17 (0.5)
18 P: Okay.

Here, P formulates a previous and unrecorded conversation about truth and lies for W to confirm. A verbal demonstration does not occur. However, P formulates a reciprocal agreement that *both* parties will 'talk about the truth'. W confirms with a gesture (line 14) and the AA formulates W's gesture to confirm verbally at line 16, "yeah". The police officer closes the sequence and moves onto the next action.

In Extract 4, P formulates a previous conversation, but W provides neither verbal nor embodied confirmation.

Extract 4: Interview 5

1 P: What we've also talked about (0.4)
2 telling the truth okay?
3 (0.3)
4 P: And making sure (0.3) that everything you
5 say in here to me today (0.3) is the truth
6 about what's been going on. All right?
7 (0.4)
8 P: .hh All right Anne.
9 (0.7)
10 P: What I'm going to ask you to do then chick
11 is just tell me (0.6) in as much detail as
12 you can.

Like previous extracts, P initiates the topic of telling the truth for the tape, formulating a prior but unrecorded conversation. Even though there are gaps for a confirmation to take place (e.g., lines 3 and 7), both audio *and video* recording reveals no explicit confirmation from W; the interview proceeds on the basis of a passive or implicit agreement to tell the truth.

In this section, we have seen how interviewers incorporate ‘truth and lies sequences’ into the larger project of negotiating the ‘ground rules’. The ABE guidelines state that “In cases where discussion of truth and lies is appropriate, it is important to *demonstrate* that the witness understands the difference between the two” (p.73, emphasis added). As the goal is to elicit a *demonstration*, then, as part of evidence-giving and relevant to later court proceedings, then this practice does not produce such a demonstration. This may not be in the best interests of the victim; if they do not, for the record, display their understanding of ‘truth and lies’, subsequent evidence may be regarded as less robust.

In the next section, we see further instances of practices that do not align with ABE guidance.

3. *Repeated and multiple demonstrations and confirmations of understanding*

In Extract 5, we join the interview after the mandatory preliminaries have been completed.

Extract 5: Interview 13

1 P: No:w (0.2) whilst we're in here
2 (0.7)
3 P: Very importantly
4 (0.3)
5 P: Uh:m I want to (0.3) make it very clear and stress that,
6 (0.7)
7 P: I nee:d you to tell me the tru:th.
8 (0.4)
9 P: Okay.=About what happened.
10 (0.7)
11 P: Uh::m.
12 (1.4)
13 P: I need you to be very honest with me.=And I will be honest with
14 you:..
15 (0.3)
16 P: Oka:y.
17 W: >Ye'h<.
18 (1.0)

The ABE guidance suggests that statements like, “Please tell me all you can remember about what happened. Don’t make anything up or leave anything out. *It is important to tell the truth.*” (3.22, p.73, italics added) are appropriate. In Extract 5, P builds an extended sequence with additional hyperbolic components – multiple adverbs (“very”) and imperative verbs (“need”) – not seen in previous examples (“I want to (0.3) make it very clear and stress that I need you to tell me the truth.”). This extract prefaces a further extensive and expanded sequence of talk about ‘truth telling’. Extract 6 occurs about 80 seconds later in the interview.

Extract 6: Interview 13 cont.

1 P: An’ are y- g- an’an’ are you gonna be
 2 truthful with me.=Are you gonna tell me all:
 3 the truth about what happ:ened.
 4 (0.2)
 5 W: .tch yeah.
 6 (0.2)
 7 P: Yea:h?
 8 (1.2)
 9 W: Yes.
 10 (0.9)
 11 P: What do you understand >when I- when I< say
 12 are you going to be truthful with me and
 13 tell me the truth.=What do you understand that
 14 [to mean.]
 15 W: [Jus’ be]
 16 (0.6)
 17 W: Just be (0.3) jus’ remember as much as I
 18 can.=I’ve been (0.5) ‘tr-’ (0.5) trying not to.
 19 (0.3)
 20 P: Yea:h.
 21 (0.9)
 22 W: And askin’ (0.9) myself why did it,
 23 (1.8)
 24 P: Ye:ah.
 25 W: Happen.
 26 (0.7)
 27 W: ’nd hhhhh (2) why (0.4) why me an’ (2.2)
 28 why not to somebody el- (2.7) Else it’s
 29 (0.8) not,
 30 (2.5)
 31 W: (That’s in [t-)
 32 P: [<Of cour:se.
 33 W: (You will) (0.3) you know I-
 34 (1.3)
 35 W: I jus’.hh hhhh
 36 P: .hh >What d’ you [r- e- we-<]

37 W: [TRY an're]member as much
 38 as I can and hhhh [I will] do.
 39 P: [Yea:h.]

As the sequence unfolds, P *does* elicit a demonstration of understanding from W (lines 15-18; 22, 25, 27-38). However, unlike earlier extracts, P asks the witness interrogative questions (“are you gonna be truthful with me”; “Are you gonna tell me all the truth about what happened”), embedded the imperative-laden and hyperbolic prefaces seen in Extract 5. P’s approach to ‘truth and lies’ has a different and moral project than earlier examples, in which officers simply state the importance of telling the truth. The structure of Extract 6 looks more like a suspect interview, where police officers use follow-up questions, to pursue any incomplete or inconsistent answers rather than one with the victim of sexual assault demonstrating competency (Antaki and Stokoe 2017; Stokoe, Edwards and Edwards 2015). P’s yes-no interrogative questions (Raymond 2003) about W’s intention to tell the truth receive a preferred response (“yeah”) at line 5. However, unlike the confirmatory “yes” responses in prior extracts, this is just the beginning of multiple turns that continue to extend the sequence:

Extract 7: Interview 13 cont.

1 P: When< when I sort of (.) when I say to you
 2 that I- I want you to be really honest with
 3 me.=and very truthful.
 4 (0.5)
 5 P: Uhm what do you understand the difference
 6 between when somebody’s (0.3) telling the
 7 truth or when somebody’s ly:ing.
 8 (4.7)
 9 W: Just,
 10 (3.7)
 11 W: Just separate >the< (0.4) the lies from the
 12 truth really at the end of the day.

At line 12, by concluding their answer with an idiomatic expression (“at the end of the day”) it seems that W has nothing more to add (see Drew and Holt 1988). Furthermore, we know

that when one interlocutor repeats the same question, recipients may infer that they have given the wrong answer (e.g., Macbeth 2004). Across Extracts 5 to 7 – with more material we do not have space to present – the possibility that W may feel that P does not believe they will tell the truth, or understand it, seems real. In Extract 8, we see the final iteration of the sequence before P moves on to a new topic.

Extract 8: Interview 13 cont.

1 P: Yea::h. What can happen if somebody lie:s
2 about something?
3 (0.4)
4 W: .tch
5 (0.3)
6 W: You get found out.
7 (0.3)
8 P: ↑Ye↓ah.
9 (0.2)
10 W: Yup.
11 (1.3)
12 P: And wha' about if- if you're making lies
13 about somebody else?
14 (1.6)
15 P: What can happen?
16 (1.7)
17 W: It gets (them/uhm) (2.4) it's uh (2.3)
18 it gives it- (0.9) (the- uh- uh-) (0.3) it
19 gives them not a (0.9) not a very good a-
20 (0.7) paints them in a not a very good
21 light.
22 (0.4)
23 P: Ab:solutely, (0.2) yeah.
24 (0.3)
25 P: Oka::y.
26 (1.5)
27 P: Uhm (0.5) if we can move on then.=Obviously,
28 this matter's been reported to the police.

P's questions now focus on eliciting from W that he is able to demonstrate an understanding of what "lying" means, in particular, across two question-answer sequences ("what can happen if somebody lies about something?"; "what about if you're making lies about somebody else?"). At line 23, P confirms that W has answered 'correctly' and the interview moves on.

By eliciting *multiple* demonstrations and confirmations of understanding from W, this sequence is markedly extended beyond the 'best practice' that is provided for by ABE. As we

suggested earlier, the overall sequence is more akin to a suspect than a witness interview where follow-up questions are more common place (Antaki and Stokoe 2017). Indeed, when we presented these data to the police officers who deliver interview training, this was their own assessment. However, the ‘truth and lies’ conversation was still located correctly at the *start* of the interview, *before* a narrative account of events is elicited. In the final section, we examine cases in which talk about truth and lies is re-introduced at other phases of the interview.

4. *When truth and lies discussions are re-initiated*

ABE guidelines state that questions about truth telling should not happen “later in the interview because this might run the risk of the [witness] concluding that the interviewer had not believed what they had said up to that point” (p.72). However, in our first example, it is the *witness* who invokes truth and lies. We re-join Interview 13 as P questions W about their account, and they are talking about the alleged perpetrator’s penis.

Extract 9: Interview 13 cont.

1 P: Could you see if it had been circumcised
2 (1.5)
3 W: I wouldn’t have a clue what that, (0.6)
4 you’re asking somebody that doesn’t know.
5 (0.4)
6 P: °That’s fi:ne.°
7 (0.1)
8 W: ↑Yeah?
9 (0.6)
10 W: ‘Cos you asked me to be (0.3) t- be honest
11 so[:
12 P: [Absolutely yeah.
13 W: I wouldn’t even know (0.5) where to, (1.6)
14 where to look or if there was any scarring
15 or an-
16 (0.3)
17 P: °Okay.°
18 W: [(So I-]
19 P: [What ha]ppened from there then?

Prior to this extract, W has been providing P with a detailed account of the alleged perpetrator's actions. P asks "Could you see if it had been circumcised?" W produces a dispreferred response, after some delay, between lines 4 and 6, which accounts for the lack of type-conforming (yes or no) response. W states that he "wouldn't have a clue what that", then abandons and restarts his response: "you're asking someone that doesn't know". P does not pursue the topic even though expansion is relevant, and does not, say, check W's understanding of the term 'circumcised'. Instead, P moves to close the sequence at line 8 with a softly-produced "that's fine". W treats P's lack of pursuit of a response as accountable, and he invokes 'being honest' as a resource ("Cause you asked me to be honest"). In so doing, W presses the point that he *cannot* answer, rather than that he is being uncooperative.

In Extract 10, the *police officer* initiates discussion of truth and lies – well outside the opening phase of the interview and counter to ABE guidelines. P is questioning W about their use of pornography.

Extract 10: Interview 10

1	P:	I kno:w in the past it's been spoken about
2		that there was (0.2) porn that was being played.
3		(1.4)
4	P:	Did you ever watch porn when you were living
5		at home?
6		(3.9)
7	P:	It's oka:y. Remember we need to be
8		truthful.
9		(0.3)
10	W:	Hm.
11		(0.7)
12	P:	°Okay,° do you know what I mean by pornog-
13		(0.3) porn.
14		(0.4)
15	W:	Um hm.
16	P:	Yeah. What do I mean, what's porn.
17		(0.8)
18	W:	People having s:ex.
19	P:	Oka:y.=So did you ever (0.7) ↑watch anything
20		like that when you were at home?
21		(1.1)
22	W:	Uh,
23		(0.8)
24	W:	Sometimes.

When P asks if W ever watched porn at home, the long 3.9 second gap indicates interactional trouble. P treats this silence as W's reluctance to 'be truthful' about this topic (and that she already knows the answer to the question). Instead of repeating or reformulating her question, and implying that W's lack of response comes from trouble in hearing or understanding, P reassures W ("It's okay") and then reminds her that "we need to be truthful" (lines 7-8). This elicits a minimal response from W at line 10 ("Hm"). P treats this as a renewed display of truth-telling intent from W, and proceeds now by treating W's earlier lack of response as a potential misunderstanding of what pornography is (line 12-16). When W confirms that they do know what it is, P reissues the questions in relation to W watching porn at home. With some delay, W confirms that she "sometimes" (line 24) does.

While the re-introduction of 'truth and lies' occurs beyond its formal location at the start of the interview, it may be used effectively to elicit a response from witnesses, in tandem with reassurance when answering a delicate question. We rejoin the interview a few minutes later.

Extract 11: Interview 10 cont.

1 P: ↑Okay. .hh So:: tell me about that
2 then.=When would you watch that?
3 (2.6)
4 W: In my room.
5 P: °Okay°. =With who.
6 (3.9)
7 W: Just me.
8 (0.3)
9 P: Just you.
10 W: Hmm.
11 P: Would anybody else be with you?
12 (0.3)
13 W: No.
14 (0.3)
15 P: Would your dad ever be with you?
16 (1.6)
17 W: No.
18 (0.4)
19 P: °Okay°. Remember what we said about the
20 truth?
21 (0.6)

22 W: Um hm.
 23 P: And that you and I have made a pact, haven't
 24 we?
 25 W: =Yes.
 26 P: To be honest.
 27 W: Yes.
 28 (0.3)
 29 P: So it's really important, if you want me to
 30 help you,
 31 (0.3)
 32 W: Um.
 33 P: That you've got to tell the truth.
 34 (0.6)
 35 W: °Um hm°.
 36 P: Okay?
 37 W: Yeah.
 38 P: So did anybody else watch porn with you?
 39 W: No, just me.
 40 P: Just you. Okay. And where did you get the
 41 porn from?

P asks a series of questions about who, if anyone, watched pornography with W. W states that she watched it alone, on five occasions, in various formats. P's first question "with who" (line 5), implies that W did not watch porn alone. The 3.9 second gap before W answers, "Just me", while delayed, is a preferred response and a clear, complete answer. P repeats W's answer, but not as a sequence-closing third turn – it is delayed, and W treats it as a confirmation check. W confirms again that she watched alone, yet P treats this answer as non-cooperative (see Antaki and Stokoe 2017) by asking a second version of the question: "Would anyone else be with you". W's "no" answer confirms her two previous responses. P asks a further question about the same activity: "Would your dad ever be with you?"; W maintains the same response. P's multiple questions imply that W's answers have not been heard, are insufficient, or are lies. P then reintroduces the 'truth and lies sequence', which heavily implies that W's previous answers were lies (lines 19-37). When she reissues the final question at line 38, W provides the same answer she did from the start of the sequence.

In our final example, P reintroduces a truth and lies question at the end of the interview.

1 P: Is there 1- anything else about Frank you
 2 want to tell me.
 3 (5.5)
 4 W: °No:..°
 5 (0.3)
 6 P: °°'Kay.°° Is everything you've told me
 7 you can remember is the truth?
 8 (0.8)
 9 W: Ye:: yeah.
 10 P: Yeah?
 11 (2.0)
 12 P: tch.
 13 (0.7)
 14 P: I'll uh pop outside the room now,
 15 (1.1)
 16 P: And leave you here for a moment

P's question requires W to confirm that "everything" she has said in the interview is "the truth", which W does, after a delay. P appears to pursue a second confirmation (line 10), but no answer is forthcoming from W, and P concludes this phase of the interview.

We have seen that, when 'truth and lies sequences' occur outside the formal opening phase of the interview, they accomplish a variety of functions other than the mandated ABE *demonstration* of understanding. When witnesses participate in extended sequences around truth and lies the implication is that the account is being perceived as dishonest, running counter to the aim of creating "an environment that [victims] feel at ease, *listened to*, and *not judged*" (Westera et. al. 2016: 1750; emphasis added). Similarly, witnesses who are not given any opportunity to demonstrate (or confirm) their understanding, may nevertheless find themselves being asked about truth and lies after they have already answered officers' questions. Officers may also ask the witness to confirm they have been telling the truth at the close of the interview. In the pursuit of creating a safe and encouraging environment for victims of sexual assault, our analysis has focused on just one way in which interview practices may, in fact, create the opposite.

Discussion

This study examined how police officers ‘achieved best evidence’ when asking vulnerable victims of sexual assault about their understanding of truth and lies in the wider context of underreporting rape, and the prevalence of rape myth. We know that effective police interviews are central to the legal process for victims of sexual assault, but very little is known about the actual communication that occurs between police officers and witnesses and the alignment between guidance and real practice.

Our analysis revealed that interviewers initiated conversation about truth and lies appropriately, but also inappropriately in three ways: 1) by *eliciting confirmations rather than demonstrations* of understanding; 2) by eliciting *multiple demonstrations and confirmations* of understanding, or 3) by *re-introducing* questions about truth and lies in parts of the interview deemed inappropriate according to the guidance. Both 2) and 3) imply prior or forthcoming dishonesty on the part of the witness. By *eliciting confirmations* rather than demonstrations, police interviewers breach best practice guidelines. Furthermore, because the goal of the guidance is to elicit witnesses’ demonstrations of their understanding, as part of evidence-giving and relevant to later court proceedings, failure to do may not be in the best interests of the victim. If witnesses do not, for the record, display their understanding of ‘truth and lies’, subsequent evidence may be regarded as less robust.

While officers elicit *multiple demonstrations and confirmations* of understanding from witnesses, the practice of repeating questions implies previously insufficient, incorrect or, in this context, dishonest answers. These types of multiple questioning sequences also move far beyond the ‘best practice’ provided for by the guidance, and are akin to suspect rather than witness interviews. We found that when ‘truth and lies sequences’ occurred *outside the formal opening phase* of the interview, they accomplished a variety of functions other than the

mandated ABE *demonstration* of understanding. Police officers' questions about witnesses' understanding of truth and lies, or intention to tell the truth, often appeared *after* witnesses had already answered officers' questions – implying that previous answers were not truthful.

We know that police services have come a long way to provide a safe and supportive context for alleged victims of sexual abuse. Clear guidance has existed for some time, when interviewing adults and children with intellectual impairments. But in the context of encouraging victims to report sexual assault, and achieve justice, we have identified a potential barrier in which victims – or their evidence – may be discredited right at the start of the criminal justice process when victims give their accounts to police officers. As Westera et. al. (2016: 1749) point out amongst many other commentators, “outcomes in rape investigations and prosecutions can improve through better utilization of police interviewing methods.” The findings from this paper have implications for interviewing methods, which have focused on just one item in the ‘Achieving Best Evidence’ guidelines. Further research, using a larger dataset, may help unpack other parts of the guidelines in order to establish which are effective, which are followed, and which are abandoned. Analysis can also reveal the tacit expertise of interviews which does not currently appear in the guidance (see Stokoe and Sikveland 2017). Although we hesitate to bold recommendations at this stage, where there may be difficulties in turning research findings into practice, one thing that does bear emphasis is the danger of the interviewer issuing multiple warnings about ‘telling the truth’. We hope this article pave the way for a systematic analysis of the many other components of police interviewing practice, and communication guidance, and their translation in actual interviews.

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