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Detecting Guilt Presumption in a Police-Suspect Interview: An Evaluation of the Questions in a Dutch Murder Case

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Abstract

Controlled studies have demonstrated that guilt-presumptive questions usually accompany interviewer guilt bias and accusatory behaviours towards a suspect. When evaluating police-suspect interviews, however, conventional methods primarily focus on the appropriateness of questions, and guilt-presumption is not featured as a questioning strategy. Instead, guilt-presumptive utterances are aggregated with other types of inappropriate opinion statements.

There is often more happening within an interview than is immediately identifiable by simply focusing on question types. Examining the interactivity and behaviours that lead to accusations can reveal subtleties that have a profound influence on the flow and outcome of the interview.

To demonstrate this, we analysed six interviews from a single Dutch murder investigation for guilt-presumptive language (accusations and insinuations of guilt) and question appropriateness.

We then analysed the police-suspect interactions within the interview that occurred prior to, and immediately after the guilt-presumptive language was used. The findings demonstrated that accusations prompted suspect denials, facilitated a drastic decline in suspect cooperation, and impeded the ability for interviewers to gain investigation relevant information (IRI). We argue that more applied research on guilt-presumptive language is needed in the investigative interviewing literature, particularly in the context of biased decision-making regarding questioning strategies.

Keywords: *Police-suspect interview, guilt presumption, bias, question evaluation, content analysis*

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Introduction

Research findings have resulted in a consensus that guilt presumption is a significant underlying factor when police officers employ confrontational and accusatory interview techniques (e.g., Kassin, Goldstein, & Savitsky, 2003; Narchet, Meissner, & Russano, 2011). Despite the potential for detrimental effects on suspect behaviour and interview outcome, guilt-presumptive questions are not generally identified or assessed in research designed to examine question types. Researchers and practitioners have primarily opted to categorise questions using a variety of typologies that do not explicitly include guilt-presumption (for an overview see Oxburgh, Myklebust, & Grant, 2010). Whilst those typologies may be suitable for obtaining a summary of the questions used during the interview, they may not be suitable for when a full understanding of the interview is required. For example, if a confession is called into question or the handling of a criminal case is investigated.

In this study, we examined a selection of interviews from a single Dutch murder case to demonstrate the importance of identifying and understanding the interactivity between the interviewer and the suspect. In the first part of this paper, we analysed the interviews by question type, suspect cooperation, and amount of investigation relevant information obtained. In the second part of the paper, we analysed those same interviews for insinuating and accusatory guilt presumptive language. We then discuss the influence of such language on the suspect's behaviour as well as the dynamic of the interview. We make an argument that guilt-presumptive language should be identified when evaluating interviews, as it may provide insight to the interviewer's guilt presumptions and help explain subsequent interview outcomes (e.g., reduced information obtained and reduced suspect cooperation).

Guilt Presumption and Information-gathering Interviews

The investigative interview is a crucial tool for gathering investigation relevant information (IRI) from witnesses, victims and suspects. Suspect interviews generally occur at a crucial stage in the investigation (Baldwin, 1993), and it is imperative that the interview is conducted in a way that does not impede the investigation. However, factors of the criminal investigation such as scenario creation and identifying a prime suspect can introduce an expectancy of guilt once the suspect interview commences (O'Brien, 2007; Walton, 2003). The challenge for interviewers is then to remain objective whilst attaining the suspect's account and this must be achieved considering the information they already have – no matter how incriminating that information may seem. Weak information against a suspect can also be framed in a way to justify arrest and questioning (Kassin, 2005). Researchers have demonstrated that when police investigators do not have strong evidence against a suspect more coercive and undesirable interview tactics are employed to break down suspect denials (Ofshe & Leo, 1997). In most jurisdictions, case closure often relies on suspect confessions (Moston & Fisher, 2007). This includes countries that use more accusatory interview practices (e.g., N. America and Asian countries) as well as countries that use information gathering techniques (e.g., UK and The Netherlands). Despite the interview framework used, some of the tactics employed during suspect interviews can facilitate false confessions and lead to eventual miscarriages of justice through coercive tactics and guilt-presumptive questioning (Kassin, 2005). In fact, the most consistent finding throughout the literature suggests that interviewers are more likely to use guilt-presumptive language when they have an expectation of guilt about the suspect (Hill, Memon, & McGeorge, 2008; Kassin et al., 2003; Moston & Engelberg, 1993; Narchet et al., 2011; Ofshe & Leo, 1997). Guilt presumption in police-suspect interviews has

been shown to taint judgements of veracity (Meissner & Kassin, 2002), influence the perceptions of others who may witness the interview (Vrij, Mann, Kristen, & Fisher, 2007), alter innocent suspect behaviour (Adams-Quackenbush, Horselenberg, Hubert, Vrij, & Van Koppen, 2018), and subject other aspects of the investigation to investigator bias (e.g., evidence evaluation, Ditrich, 2015).

Guilt-presumption is generally linked to confrontational interviews but can also be present within information-gathering contexts (see Hill et al., 2008). Van der Sleen (2009) highlighted factors that can contribute to false confessions and juxtaposed those factors with the practices and techniques in one of the more prominent Dutch information-gathering interview methods - the GIS (General Interview Strategy; Amelsvoort, Rispens, & Grolman, 2007). Van der Sleen discussed how proper use of the GIS can prevent undesirable interview outcomes. That is, miscarriages of justice often occur when interviewers assume guilt from the beginning due to confirmatory behaviours (Lassiter, 2004) and employ improper questioning techniques. Although officers are trained to use these types of frameworks, there is evidence in the literature to suggest that police interviewers do occasionally diverge from their training and resort to accusatory strategies and coercive tactics to increase interrogative pressure and reduce suspect denials (Griffiths & Milne, 2006; Moston & Engelberg, 1993).

Guilt presumptive language.

Guilt-presumptive language can occur in all types of interviews because humans typically have the need to confirm their beliefs (Nickerson, 1998). Within the police-suspect interview, a confession could be perceived as proof that a guilt presumption was correct, and the police were right to focus on the suspect as the perpetrator. When guilt presumption is present, some interviewers may unconsciously employ questioning techniques that help confirm their guilt beliefs. In some situations, this is done through accusations that are presented as statements posed as questions (for examples see Komter, 2003), or as direct opinion statements designed to highlight a power imbalance, instil helplessness, or imply threats to a suspect (see Farinde, Olajuyigbe, & Matthew, 2015). However, the prevalence of those tactics in information-gathering interviews is suspected to be rare (Moston & Engelberg, 1993), but is currently unknown. The authors of this paper could not locate any literature that specifically evaluated police-suspect interviews for accusatory or guilt presumptive language in information-gathering contexts. However, there is some emerging research that suggested outright accusations of involvement in a crime may be infrequent in information-gathering contexts and more insinuating accusations of guilt may be used to break down suspect denials or resistance (authors, 2018).

Insinuations are a type of covert speech act that are defined by a set of felicity conditions that remove accountability for the truth of the statement from the speaker and the intention of the insinuation is not explicitly stated (Attardo, 1999; Bertuccelli Papi, 1996). In an investigative interview, insinuations may be used in the interview to imply guilt or instil doubt or helplessness in the suspect. That type of language can cause the suspect to respond defensively or to become uncooperative. Both of those behaviours can directly affect the course of the interview dialogue and change the interpersonal dynamic of the interview. Insinuations can occur during questioning; however, they are most likely to be found when the interviewer deviates from inquiry and offers opinion statements or engages in argumentative dialogue with the suspect (authors, 2018). Opinion statements are also where many interviewers deviate from their training and employ poor interviewing practices (Griffiths & Milne, 2006; Van der Sleen, 2009), and where insinuating language is most likely to occur.

Evaluating Investigative Interviews for Guilt Presumptive Language

When evaluating police-suspect interviews, conventional methods primarily focus on the appropriateness of questions asked to gather information or elicit a confession. Within the various question categorisations used by researchers, guilt-presumption is not featured as a questioning strategy; therefore, those types of utterances are not generally captured. Instead, guilt-presumptive utterances are aggregated with other types of inappropriate opinion statements. In the broadest format, some typologies include categories for appropriate and inappropriate questions (Milne & Bull, 1999; Shepherd & Griffiths, 2013). Some researchers have examined the purpose of the questions more closely and included categories for open, closed, probing, and leading questions, as well as opinion statements (e.g., Davies, Westcott, & Horan, 2000; Griffiths & Milne, 2006). There is no consensus or standardised question types amongst researchers or practitioners regarding those categories. There is, however, overall agreement that certain question types (i.e., leading, rapid/ multiple questions, and forced-choice questions) should be avoided in all types of interviews (i.e., witness, victim, and suspect; Oxburgh et al., 2010). Including guilt-presumptive language as a question type is important to draw attention to its presence within the interview. It is generally understood that utterances have intention, convey meaning, and occur in context of a situation. Those elements taken together can help interview analysts have a more in-depth understanding of what is happening within the dialogue (e.g., Haworth, 2006; Heydon, 2005). Simply knowing that guilt presumption was present in the interview can provide valuable insight about how the interview was conducted, and perhaps raise some important questions about any confession outcomes (e.g., obtained voluntarily and without coercion). However, simply identifying insinuations or accusations is not sufficient to fully comprehend any negative influences either may have on the interview interaction. For that, a more thorough evaluation of the content is needed. Further insight into the exchanges within an interview is often required to fully understand the effect that guilt-presumptions have on eliciting information and influencing suspect behaviour. Therefore, linguistic techniques rooted in pragmatics and content analysis may be the best approach for identifying guilt presumptive language and behaviours consistent with confirmation bias (Oxburgh et al., 2010; Grant, Taylor, Oxburgh, & Myklebust, 2015).

Analysing the content of the interview allows the evaluator to focus on the utterances in context, as well as the consequences of the utterances. From an applied and practitioner standpoint, analysing the speech content and the function of the utterances in an interview is also a feasible approach for single cases. Investigative interviews are sometimes subjected to scrutiny because some aspect of the interview has been called into question. In those instances, interview evaluation is conducted by experts who are usually asked to inform a judge on the reliability of a confession¹. That type of evaluation is only possible if the expert examines the language, tactics, and interactions that occur throughout the interview and has a full understanding of the questions posed to the suspect. Although a report on the types of questions used in the interview would not provide useful information to a court, a report identifying accusatory language as an indicator of guilt presumption and its negative effects – backed up by empirical findings – could be valuable guidance for a judge.

¹ Courts will often ask experts to provide opinion on the reliability of confessions; however, this legal phrasing is erroneous from a measurement perspective. A reliable confession would be one that is consistently given in the same way over several time points. A valid confession is one that accurately portrays the details of the crime and is obtained voluntarily without coercion.

The Present Study

Many controlled studies have highlighted the negative effects of guilt-presumptive questions in interviews (see Hill et al., 2008; Kassin et al., 2003; Meissner & Kassin, 2002; Narchet et al., 2011; Olson, 2013). Those studies have also emphasised the relationship between guilt-presumption, biased decision-making (e.g., confirmation bias), and false confessions. However, when question types are evaluated for police-suspect interviews, guilt-presumptive language is absent from the more popular question typologies used by practitioners and researchers. In the remainder of this article, we will demonstrate the benefits of identifying guilt presumptive language through question classification. We then provide further insights to any negative effects of guilt-presumptive language on information-gathering endeavours, the interviewer-suspect interaction, and suspect cooperation. To demonstrate this, we present the data from a portion of interviews in a single murder investigation conducted in The Netherlands.

Background on the Dutch GIS Godel

The GIS is an interview model loosely based on the PEACE interview framework used in countries such as the UK, Norway, and Australia (see College of Policing, 2016; Hoekendijk, & Van Beek, 2015). Dutch interviewers who use the GIS will plan and prepare for the interview (Van Beek & Hoekendijk, 2015). The interviewers are trained to engage and explain with the suspect, and the within their pursuit of the truth, interviewers will also obtain the suspect's account, clarify information, and challenge statements as needed. Each interview should end with a review of the interview questions and suspect responses. Finally, the investigators will evaluate any information obtained to further the investigation and decide if more interviews are needed (Van der Sleen, 2009). This is where the similarities with the PEACE framework ends. The GIS also contains instructions to 'build interrogative pressure', 'break down suspect denials' and 'reward with praise if the suspect's statement is adjusted to reflect the truth' (see Amelvoort, et al., 2007; Clement, Van de Plas, Van den Eshof, & Nierop, 2012).

Case Background

A man was found dead in a small town in The Netherlands. The police conducted an extensive investigation and interviewed many people in relation to the case. Various CCTV information, from multiple locations, showed the victim with an unidentified adult male, hours before his death. The unknown individual was identified by the Dutch rail police through the CCTV footage, and his identity was given to the investigators on the case. It was eventually revealed through interviewing other witnesses that the man (henceforth referred to as the suspect) was an acquaintance of the victim. Based on the CCTV footage of the suspect and victim leaving the train station together, the investigators believed the suspect was the last person with the victim before his death. The suspect was arrested and brought in for questioning. Some of the physical evidence collected at the scene was traced back to the suspect after a search and confiscation of his personal items. However, the evidence was weak and did not implicate the suspect in the commission of a crime. To further the case, the police needed the suspect to provide his account of events and explain the evidence against him. In accordance with Dutch custody procedures, the suspect was remanded for questioning, which was extended for a little over two months while the investigation continued. During that period, the suspect was interviewed 17 times by two interviewers who used the GIS framework (Amelvoort et al., 2010). The suspect maintained his

innocence throughout the process and was eventually freed due to a lack of evidence that implicated him as the killer.

Although the suspect was released from custody, the 2.5 months he was remanded had negative effects in his personal life. During the remand period, the suspect lost his job and placement in a drug rehabilitation program. As a result, he became a financial burden to his family, and returned to drugs, which deteriorated the family dynamic. Ten months after his release, the suspect returned to the police station and offered to confess to the murder if a number of conditions could be met (e.g., specific prison to serve his time, a bible, and access to drug rehabilitation). The conditions were agreed upon, and in the interview that followed he gave his account of the murder. However, the suspect did not reveal key information that only the murderer would know. The investigators conducted four subsequent interviews in an attempt to obtain a statement that was consistent with the evidence; however, the interviewers did not succeed. Prior to trial, all 23 interviews and the case file were sent to an expert for an opinion on the reliability of the confession. Despite initially maintaining his innocence for 17 interviews and providing an inconsistent confession to the crime, the suspect was sentenced to 18 years in prison. The case has been appealed and legal proceedings are ongoing at the time of this writing.

Method

Interviews

Twenty-three interviews with a murder suspect were obtained from the expert involved in the analysis of the police suspect interviews. During each interview session, two interviewers and the suspect were present. There was no legal counsel present in any of the interviews. All the interviewers and the suspect spoke Dutch.

The last six interviews were excluded from this study because they occurred 10 months after the suspect was released with no charges due to lack of evidence. Moreover, those last six interviews occurred under a different set of circumstances (potential false confession) and were unsuitable for evaluating interviewer guilt presumption. All 17 remaining interviews were coded for speech content and interview theme; however, only six ($N = 6$) interviews were randomly chosen for analysis on question types². The mean interview length of the six interviews was 113 minutes ($SD = 14.77$). The first (#1) interview was purposefully chosen as a natural starting point as it contained the free narrative from the suspect. An additional five interviews were then randomly selected from the remaining sample (interviews #2, #3, #8, #10, and #16). Five of the interviews had the same two male interviewers. The primary male interviewer asked most of the questions and is indicated by I1. The second interviewer occasionally engaged in asking questions, but his primary role was to type the suspect's responses to each question (I2 typed almost continuously throughout the interviews). He is indicated by I2. In interview #16, the primary interviewer (I1) was replaced with a female detective who is indicated as I3.

Coding Procedure

Due to the severity of the crime, the interviews were audio and visually recorded. All 17 interviews were viewed and transcribed in strict verbatim style in Dutch by a bilingual (Dutch/

² The pattern of questioning and question types was repetitive throughout the 17 interviews. Because the objective of the case study is to demonstrate the type of information that can be obtained by different methods of interview evaluation, the authors decided a random sampling of six interviews was sufficient for this purpose.

English) research assistant (RA) who was naive to the purpose of the study. The RA used Jeffersonian transcription notation for conversational analysis with small variations for denoting overlapping speech, nonverbal behaviour, and contextual notes (Jefferson, 1984; see Appendix B for transcription notation). Each complete phrase uttered by all parties in the interview room received its own line number. The Dutch transcripts were then translated into English by the same assistant. The Dutch-to-English transcripts were checked by a second bilingual (Dutch/ English) RA for accuracy of translation. All transcripts were 100% accurate. The first author of this paper then viewed the interviews with both language transcriptions to verify and take notes on: speaker tone of voice, interruptions, speaker volume, and inflection. Nonverbal behaviours (e.g., gestures) were also noted to gain additional insight to the demeanour and context of the interactions as those behaviours are described in the transcriptions.

Coding the Techniques

The translated transcripts were divided into turns for coding purposes. Turns were defined as a complete interaction that was initiated by an interviewer's question or comment. The turn continued until the interviewer asked a new question or made a statement on a topic unrelated to the current topic under discussion. Only questions directly relevant to obtaining IRI or clarification were coded. Questions such as, "*can I get you a drink?*" or "*what did you have for lunch?*" were not coded for analysis. Additionally, only statements that pertained to the case were coded. Informative statements such as "*your sister dropped off clothes and cigarettes for you*" or an interviewer response to questions posed by the suspect during small talk and banter were also not included (e.g., "*I'll see what I can do about getting you some warmer clothing*"). To calculate intercoder reliability, 20% of the interviewer questions and 20% of the suspect's responses were randomly selected and recoded by a third RA who was also blind to the purpose of the study. Percent agreement was calculated for each factor and conservative agreement thresholds were applied: < .80 = poor, .80 - .86 = fair, .87 - .93 = good, and .94 - 1.0 = excellent. The codable questions asked by the interviewers were first categorized by broad question types (appropriate and inappropriate; Milne & Bull, 1999; Shepherd & Griffiths, 2013). Interrater agreement was 89.9%, which suggested a high level of consistency. Questions were then coded using more specific types (open, probing, appropriate closed, inappropriate closed, leading, forced choice, multiple, and opinion/ statement; see Appendix A for definitions). Interrater agreement was 97.3%³. All discrepancies in the coding were due to the distinction between appropriate and inappropriate for the closed question category. The disputed questions were then presented within the contextual dialogue to a subject matter expert (in investigative interview questions) for a final decision on 'appropriateness'.

Identifying and Analysing the Speech Acts.

The translated English transcripts were analysed for occurrences of guilt-presumptive language (direct accusations and insinuations of guilt) within each turn. Once an instance was identified, the suspect's utterances immediately prior to, and immediately after, the insinuation were evaluated for information elicited during the exchange as well as suspect cooperation. A

³ All interrater disagreement was resolved by checking the transcripts. In cases where subjective decisions were needed, the first author along with a subject matter expert made the final decision (2.7% of the instances) and these were not counted as resolved in the interrater coding.

linguist who was blind to the purpose of the study also reviewed the occurrences of insinuation to ensure objectivity in the analysis. There was 100% agreement in all instances.

Investigation relevant information (IRI).

The responses to each question were examined for IRI within each turn to assess question efficacy. Relevant information was coded using established schemes adapted from previous studies (see Hutcheson, Baxter, Telfer, & Warden, 1995; Milne & Bull, 2003; Oxburgh, Ost, Morris, & Cherryman, 2014). The IRI was defined as: **P**erson information, **A**ction information, **L**ocation information, **I**tem information, and **T**emporal information (PALIT). Each piece of information obtained was coded only once across all interviews and only new information was included. Interrater agreement was 94.2%.

Suspect co-operation.

If the suspect responded to a question with an answer that gave information or explanation (regardless of detail or length), it was coded as cooperative. If the suspect refused to respond, invoked his right to silence, or evaded the question, it was coded as uncooperative. Interrater agreement was 96.8%.

Results

Part I Analysis: Question Typologies and Outcomes

Across the six analysed interviews there were 1942 codable utterances made to the suspect ($n = 1049$ questions, $M_{questions} = 174.8$, $SD = 58.9$; $n = 893$ statements, $M_{statements} = 148.8$, $SD = 88.8$). The GIS interviewing framework requires interviewers to conduct two types of interviews: suspect oriented and case oriented. Moreover, interviewers who use the GIS approach start each interview with a theme for questioning and some prepared questions (see Table 1 for additional information on each interview). To determine whether interview type influenced the types of questions asked, ANOVAs were conducted between interview types to compare the variables of interest. No significant differences emerged whether the interviewers focused on the suspect (person-oriented) or the information and evidence (case-oriented). Frequency of accusatory questions [$F(4,1) = .75$, $p = .44$], number of appropriate questions [$F(4,1) = 1.01$, $p = .37$], and number of inappropriate questions [$F(4,1) = 2.15$, $p = .22$] did not differ across interview types.

Question types.

There were no occurrences of accusatory questions in these interviews, however there were 13 direct accusations of involvement in the crime and 12 insinuations of involvement that were all presented as statements. All guilt-presumptive language occurred within the category of inappropriate opinion statements (7% of utterances). Within the overall statements made by the interviewers, 38.8% ($n = 347$) of the interviewer utterances were categorised as inappropriate. The remaining 61.2% of the overall statements pertained to the case and were considered appropriate utterances. However, within the coding structure there was no category for appropriate statements (e.g., explanation of charges, presentation of evidence, or paraphrasing of suspect

responses). Thus, appropriate statements were not included in the subsequent analyses of appropriate and inappropriate utterances.

Most of the questions posed to the suspect were appropriate (61.9%), which was attributed to the high number of closed-appropriate questions overall (34.4%). The interviewers use of open (Tell Explain Describe: TED) questions was negligible across the interviews (< 1%). The most commonly used inappropriate questions were leading questions (16.1%) followed closely by inappropriate closed questions (11%). Guilt-presumptive language featured more prominently, in relation to other types of questioning, at interviews #2 and #8, which were both case-oriented interviews (see Table 1).

Table 1. Descriptive information about the interviews: primary interviewer, interview length, interview type and the themes for questioning.

Interview #	Primary Interviewer	Secondary Interviewer	Length (min)	Interview Type	Questioning Themes & Topics
1	I1	I2	148	Opening/ Case	Charges Free narrative Alibi Suspect knowledge of crime details
2	I1	I2	123	Case	Acquaintances Transportation Cell phone use (Suspect) Cell phone use (Victim) Drug use Alibi (clarification)
3	I1	I2	124	Person	Religion Residence Finances Employment Confiscated belongings On-line presence Cell phone use & Contacts Recreational drug use Shared clothing & items
8	I1	I2	155	Case	Witness statements Confront inconsistencies
10	I1	I2	128	Person	Relationship with daughter Phone contacts
16	I3	I2	132	Case	Presentation of evidence

Interviewers obtained 198 pieces of investigation relevant information (IRI) within the six analysed interviews. Most of the IRI was acquired during the suspect's free narrative within the first interview (40.9%). The amount of IRI attained steadily decreased over the course of the interviews with sharp drops at interviews #8 and #16 and a small spike at interview #10. A similar trend was observed with suspect cooperation. In the first interview, the suspect cooperated with interviewers 90% of the time, with a sharp decrease at interview #3 to cooperating 15% of the time. The suspect maintained a low level of cooperation for the remainder of the interviews with a small increase in cooperation in interview #10 (13%; see Figure 1).

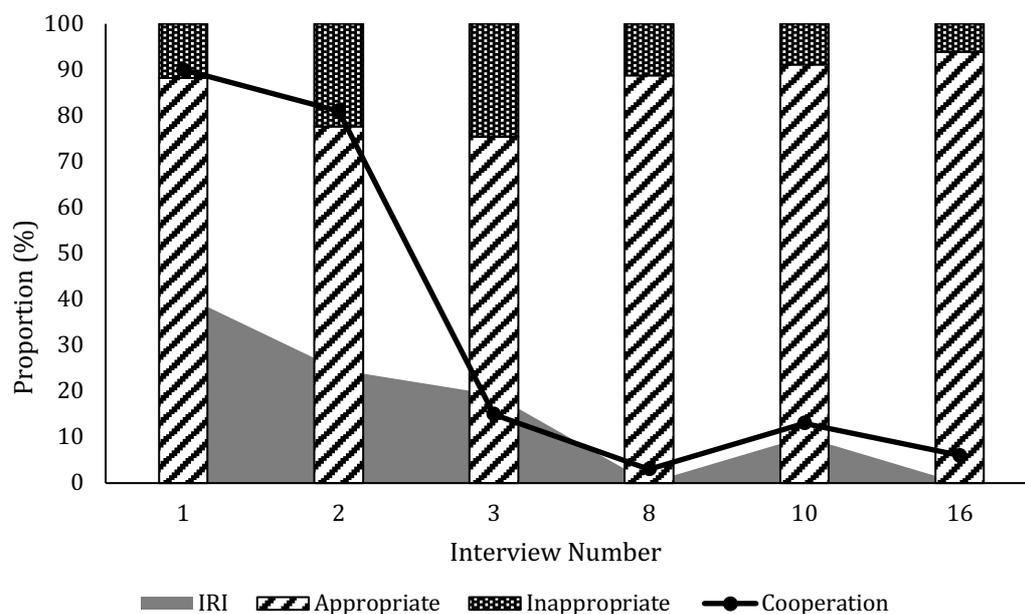


Figure 1. Proportion of appropriate questions and inappropriate questions asked, investigation relevant information obtained, and suspect cooperation over six interviews.

In the previous analysis, we demonstrated the type of information that can be obtained from police-suspect interviews when the question type, IRI, and suspect cooperation are coded. An overview revealed that the majority of questions were appropriate-closed. Whilst those types of questions are not considered the best for gaining IRI, they are effective for confirming information and obtaining short and specific responses. When used excessively, appropriate-closed questions are an indication of amateur or poor questioning practices (Shepherd & Griffiths, 2013).

Part II Analysis: Guilt Presumption and Accusations in Context

In the analysis that follows, we examined the context, words, and interaction between the interviewers and suspect for each interview. We provided a sample of instances of accusation and insinuation to demonstrate the type of information that can be obtained with a more in-depth type of evaluation.

According to the GIS, the first interview of this case should be a free-narrative or 'first contact' interview (Amelsvoort et al., 2010). The interviewers initially followed the standard GIS process and informed the suspect of his rights and the process of the interview. The interviewers then provided the suspect with procedural information and the reason for his arrest. The free narrative was prompted with an open question about the day the suspect was seen travelling with the victim. That allowed the suspect to provide a response that was punctuated with some probing, clarifying, and appropriate-closed questions from the interviewers. Approximately 40 minutes into the interview, the suspect gave his first denial of involvement. He then gave some resistance when prompted for the name of his drug dealer. The suspect felt that information was unrelated to the murder and did not want to cause the dealer unnecessary problems with the police. After some discussion about the importance of knowing who the dealer was (for alibi substantiation), the first accusation occurred at 0:42:26 minutes into the interview:

I1: Yes, but those are people at that moment who can confirm whether some people were or were not present at the time.

S: Um::: I think it's such a minor detail (.) I mean =

I1: = Yes to you to you it is a::: it is a small detail (.) but on the other hand ((*points at the suspect with dramatic emphasis*)) YOU are here =

S: = Yes I do know that, but //

I1: /And you are sitting here because you are involved in the death of [*Victim*]/
: = Yes

I1: And if you say yes but I have nothing to do with it then really use this opportunity that YOU now have // to say like yeah so and so can confirm that I (.) wasn't there // that I was somewhere else =

S: /Yes/

S: /Yes but I keep saying that, [*person name*] eh (mumbles)/

S: = ,oh him him him too (inaudible) [*male name*] [3] I do know I do know the address number (hhh) anyway he is still using and eh he always comes there too eh/

The accusation is a clear statement that the suspect is being interviewed because he was certainly involved in the victim's death. The phrasing of this statement to indicate actual involvement was very important. The interviewer could have delivered that message with less accusatory phrasing, but that would not have led to the desired effect to increase interrogative pressure and reduce denials. That is, the guilt-presumptive language was possibly used as a tactic to reduce the resistance of the suspect and remind him of the severity of the situation. In this instance, the suspect responded to the accusation with cooperation and attempted to provide the name of a male drug-user who could verify the alibi instead of naming the dealer. That response also provided the interviewers with additional IRI (person). However, accusations as a tactic can also backfire. The use of accusatory and confrontational questions has been shown to have negative effects on suspect cooperation that can last up to 15-minutes (Kelly, Miller, & Redlich, 2015).

Another tactic used within the GIS is to conduct a person-oriented interview early in the process. This is often the second step after the free narrative or 'first contact' interview. The person-oriented phase allows interviewers to establish rapport, gain some insight into the person they are interviewing, and to get the suspect talking (Amelsvoort et al., 2010; Geijsen, Vanbelle, Kop, & De Ruiter, 2018). The interviewers in this case opted not to employ this tactic and at the next interview, they continued with their efforts from the previous day to gather case specific information. That decision to diverge from the GIS process may have impeded their ability to attain meaningful IRI.

Throughout most of the second interview, the interviewers asked pointed questions about specific pieces of information that the suspect already provided in the first interview (appropriate

closed questions). The suspect answered the questions and some additional IRI was obtained. However, towards the end of the interview there was a sudden shift in interviewer behaviour when I1 asked I2 if he had any questions. I2 responded with an insinuation that the suspect was lying. It should be noted that I2's primary role within the interviews was to record the suspect's responses into an interview table that was located on a computer. That document likely contained a list of topics, themes, and specific questions that the interviewers used as a guide, as well as information that had been collected about the case (Van Beek & Hoekendijk, 2015). I2 would have information that raised questions about the truthfulness of the suspect's response (revealed in a later interview). Because it was too soon to confront the suspect with that information, I2 may have chosen to express his disbelief by accusing the suspect of lying.

I1: I am eh::: running out of questions so I am looking at [I2's name] ((looks at I2))

I2: (hhh) I think he really needs to think very hard right now

S: About?

I2: You came back by train (.) yes?

S: ((nods))

I2: Then you're telling a story

The suspect then stated that it was a regular day to him, so he could not recollect the exact minute details about his whereabouts, the people he spoke to, and the phone calls he may have made that the interviewers were pressing him for. I2 and I1 then use the suspect's utterances as a starting point for a stream of guilt-presumptive language that included statements as questions and insinuations of involvement:

I2: That is a very crucial day right? // Look it might be a day like any other day to you =

S: /(mumbles) (inaudible)/

S: = Yes but I'm saying –

I2: So do remember that that day was the last day eh::: that [victim] saw the light of day (.) Yes?

S: (nods) Yes but I –

I1: And you are simply one of the last (.) maybe the last person who saw him (.) So, eh::: you can say that is an ordinary day to me and I went from there to there and I really don't remember everything (.) And as [I2] already mentioned a few times (.) you need to start to think really hard right now

S: Yes because I'm telling you –

I2: SOMEONE HAS BEEN KILLED AND YOU WERE THERE =

S: = [defensively] But I just know (.) Look (.) if I was so to say there (.) and if I had done it (.) then it would have been a special moment (.) special day (.) then I would know about that and that

I2: = Mhrm =

S: [defensively] ((gestures for emphasis)) To me it's a day like any other day and I can't say like (.) well I come across him and so and so often (.) so many different people (.) it's just (.) to me really nothing special happened that day

I1: Now (.) very briefly [*suspect's name*] (.) you went to [*town in the Netherlands*] with [*victim*] =

S: = Yes =

I1: AND HE WAS FOUND DEAD AFTER

The exchange continued with the interviewers repeating that the suspect was with the victim on the day of his death another three times. The suspect retorted by asking the interviewers how they know that he was the last person with the victim if they lost track of the victim's whereabouts after he left the train station. The interviewers did not respond to the question. The interview dialogue deteriorated over the next seven minutes into an argument filled with sarcastic replies from all parties, and further guilt-presumptive language uttered by the interviewers. The dialogue was never recovered, and the suspect became uncooperative. The interviewers decided to end the session and start again after lunch.

The third interview (conducted a few hours after the previous exchange) was when the interviewers finally attempted to conduct a person-oriented interview designed to build trust and rapport. This interview, however, contained the highest proportion of inappropriate questions and one instance of guilt-presumptive language, neither of which are considered conducive for building rapport or obtaining IRI. Most of the inappropriate questions came from the category of inappropriate-closed questions. It was also during this interview that the most drastic decline in suspect cooperation occurred, which also influenced the amount of IRI obtained.

Most of the issues with the third interview can likely be attributed to the confrontational and accusatory behaviour exhibited by the interviewers in the interview directly preceding it. When the suspect returned to the interview room after lunch he appeared to be in a foul and uncooperative mood. The interviewers spent a significant amount of time negotiating the suspect's cooperation, to no avail. His demeanour was closed, and his posture was defensive. Periodically throughout interview #3, the suspect answered some questions and divulged a bit of new information. At one point in the interview, he spoke about a serious health issue concerning one of his family members. He explained how being incarcerated was troubling him, because he could not be there for that person while he was in custody. The suspect also lamented that he had been doing well in his life and now the arrest had changed that. Those moments would have been perfect opportunities for the interviewers to build rapport and open the dialogue to learn more about the suspect. Instead, this was where the I1 insinuated his belief that the suspect was involved in the victim's death:

S: [The suspect's utterance is omitted as it was almost completely comprised of identifying information]

I1: Yes, but there is a reason why you are here (.) isn't there! And t-that silly thing that happens (.) I don't want to hear that and that (.) You do it to yourself (.) Its that you - At some point when we are discussing normal questions you just go and say like well I'm not going to cooperate any more.

S: Yes =

I1: = I can - (.) My gut feeling is not getting any stronger about you [*suspect*] to say that guy really has nothing to do with it

S: No way (.) eh:: I have (.) that's why I'm saying (.) I told you to the point where I saw [*victim*] and what happened and the last time I saw him (.) But otherwise I have nothing to do with it! And I'm not going to tell you stuff or put words in your mouths because that's where that I'm thinking like (.) well you (.) you all know it too

The exchange between I1 and the suspect around his involvement in the crime continues. It eventually ended with the suspect invoking his right to silence and the interviewers once again attempting to negotiate cooperation. The interview dialogue was not regained within this interview, and rapport building did not occur.

Interview #8 was case-oriented and occurred four days after interview #3. In that time, four other interviews were conducted. In the four unanalysed interviews, the suspect was mostly confronted with witness statements. Those statements potentially called into question the suspect's account of his whereabouts, as well as the suspect's knowledge of why the victim travelled to the town where he was found dead. Interview #8 contained mainly appropriate questions (88.83%; probing and appropriate-closed); however, no IRI was obtained and suspect cooperation was at the lowest point over the six analysed interviews. It could be argued that by the eighth interview, the suspect simply had no more information to offer, or perhaps he was overwhelmed with the evidence against him. But a closer look at the 10 instances of guilt-presumptive language identified within the interview provide a different perspective.

The interview started as usual with a reminder of the suspect's rights, re-introductions, and some inquiries about the suspect's well-being (e.g., health, warmth, if he has eaten, etc.). The interviewers then made some small talk about their roles in the investigation and that they were simply assigned to be his interviewers. They told the suspect they do not judge him and there were no hard feelings toward him. The suspect seemed to be mildly embarrassed but appreciative of the gesture. The interviewers then made some inquiries about the suspect's religious faith and what that meant for his morality and honesty. The suspect engaged in the banter until eight minutes into the interview. At that point, I1 suddenly moved the topic of discussion to his belief that the suspect had been lying to them over the previous interviews. That led to the first explicit statement of guilt:

I1: Look (.) we are investigating all things that are AGAINST you (.) but if there are things that work in your favour (.) I want to investigate those too

S: Mm:::

I1: You are here for murder. Not me

S: (hhh) Yes (.) no that's why –

I1: And there are things coming to light that are not right (.) I do believe that! But I think that most of the things that come up are things that you stated that are not true.

S: So eh (hhh) We will see when this goes to the judge (hhh)

The interviewer made an explicit mention that the suspect is in custody for murder and that he does not believe some of the suspect's statements. The suspect responds with an insinuation of innocence as he believes everything will be cleared up once the case goes before a judge. Immediately after the exchange, the theme of the interview was revealed as case oriented- presentation of evidence (see Table 1) and the suspect was presented with more witness statements.

Within the GIS, a case oriented- presentation of evidence interview is supposed to be an opportunity for the suspect to hear the evidence and respond to it, or offer further explanation (Amelsvoort et al., 2010; Van der Sleen, 2009). In this instance, the witness statements were presented as facts and the suspect statements were consistently challenged. The suspect was confronted with two witness statements that claimed the suspect confessed to a murder whilst having a religious moment and that God had confirmed to one of the witnesses that the suspect was a murderer. The suspect found those statements incredulous and denied such a confession or being involved in the murder of the victim. The interviewers stated that the witnesses never indicated who was murdered and concluded that the suspect had in fact killed someone, even if it wasn't the murder currently under investigation. They pressed the suspect using repeated (inappropriate) questions asking him who he had killed. The interviewer's behaviour resulted in multiple suspect denials, sarcastic exchanges, arguments about involvement, and increased suspect non-cooperation.

The tenth interview was a person-oriented interview centered around a member of the suspect's family for whom the suspect had a great deal of concern. The interviewers presented the suspect with a partial statement from that person, which had mixed results on the suspect's behaviour. Initially, the suspect was upset that the police approached the family member and he attempted to close the dialogue with uncooperative behaviour. The interviewers read the statement anyway, which invoked an emotional response in the suspect. The suspect's demeanour softened a bit and he became responsive to some of the questions, which resulted in a slight increase of IRI. Interview #10 contained no direct accusations and only one instance of insinuating language after the interviewers attempted to gain information about the suspect's conversations with a behavioural management therapist. The suspect did not want to provide therapy information and claimed it had nothing to do with the case. The interviewers disagreed and then implied that they could tell by the suspect's nonverbal behaviour that he was involved in the murder:

I1: Yes (.) you don't want to talk about anything that has to do with this case

S: (mumbles) I am talking about it (.) That has nothing to do with that case (.) what I said to the behavioural therapist then what or how –

I1: Ye::s (.) that that (.) your behaviour tells us something too right? I can see now on some of the questions how you eh (.) how you react and what kind of body language you use. There are almost no words necessary anymore [*suspect*]

S: Yes yes (hhh) (laughs) I think that's great. Then you only ((points to video camera)) need that kind of thing and then you see how they react and they are like that ((makes closed posture)) closed (.) like ((makes open posture)) open and eh ((shrugs)) Yes ((shrugs)) See what you want

In this situation, the suspect immediately caught on to the interviewer's implication that his body language was indicative of his guilt and made a sarcastically humorous retort about it. Some banter about body language ensued, and the exchange ended with the interviewer making some inquiries about people the suspect had in this mobile phone contact list. This is where all the IRI (person information) for this interview was obtained.

The sixteenth and penultimate interview occurred before the suspect was released due to lack of sufficient evidence to proceed to trial. The interview was composed almost entirely of appropriate questions (93.9%); however, no IRI was obtained. The sole purpose of interview #16 was to confront the suspect with all the evidence against him. The interview was conducted by a detective who was assigned to the case and consisted of an elaborate (and sometimes dramatic) unveiling of information through a visual presentation using well known presentation software. The suspect was asked to remain silent during the demonstration and told he would get an opportunity to respond after all the evidence had been disclosed. Once the presentation was completed, the suspect seemed confused as to how he was supposed to respond. Based on the ensuing dialogue, it appeared that the investigators now believed that the suspect was not the killer but was at the crime scene and was protecting whomever killed the victim. There were no guilt presumptive language or insinuations uttered during the interview; however, all evidence was presented in an accusatory manner and the interviewers frequently raised their voices.

Discussion

The objective of the analysis presented in this article was to demonstrate the importance of identifying guilt-presumptive questioning and statements within the police-suspect interview. We evaluated a portion of the interviews in a murder case to demonstrate the type of information that can be obtained by identifying question types and the outcome of those questions (i.e., IRI and suspect cooperation). The analysis revealed that important information can be missed when evaluating interviews using typical question typologies. Evaluating the question types alone, gave the impression that these interviews contained mainly appropriate questions overall, even if they were not the most sophisticated types of questions. However, closer examination into the content revealed that although relatively infrequent, the guilt-presumptive language influenced the amount of IRI and suspect cooperation. An evaluation of the content that occurred immediately prior to and after the guilt-presumptive language suggested that direct accusations and insinuations of involvement had negative effects on dialogue, rapport, cooperation, and IRI (see author, 2018). For example, the negative effects from the very first interview tainted subsequent

interviews with the suspect. Those effects could be particularly detrimental in jurisdictions where multiple interviews are a regular part of the processes, such as in The Netherlands.

Finally, it is up to the courts to ultimately decide guilt based on the available evidence and the 'reliability' of a confession. Judges will sometimes approach experts to help guide them in those decisions. An expert in this area would know that guilt-presumptive questioning has been repeatedly shown to indicate interviewer bias. An expert would also know that there is an abundance of literature that highlights the relationship between biases, coercive tactics, and false confessions. Thus, question type becomes an important factor when advising a judge on the 'reliability' of a confession. For that reason, more research is needed that captures guilt presumptive language as a questioning type and definitively demonstrates its detrimental effects on the interview. With enough evidence in that area, an expert would be able to advise a judge that the presence of such questioning indicates a probability of psychological coercion, which could call the confession evidence into question.

Methodological Considerations

We acknowledge that this case is exceptional in that i) it is a single case, and ii) it was previously evaluated by an expert for confession reliability (i.e., validity), which implies at least one judicial player questioned the overall appropriateness. We do not propose that the interviews analysed here, or the fragments chosen as examples, are representative of all interviews that contain guilt-presumptive language, nor are they an example of a typical Dutch suspect interview. We do, however, present this analysis as a contribution to the plethora of extant literature that cautions against guilt-presumption, biased interviewing, and the potential for both to contribute to miscarriages of justice. That is, the pattern of behaviours described from the content of the interviews follows the findings previously outlined by other researchers who have examined suspect denials, uncooperative behaviours, and poor interviewing practices (e.g., Baldwin, 1993; Kassin, 2005; Kelly et al., 2015; Moston & Engelberg, 1993; Ofshe & Leo, 1997).

We also acknowledge that the ground truth of the interviewer beliefs was not known. This means we cannot comment explicitly on the presence of confirmation bias in the interviewers. Granted, the first interview contained an accusation of guilt, which may suggest that the interviewers assigned to the investigation believed the suspect was guilty. It is also possible that the accusations were merely used as a tactic to reduce resistance and the insinuations were uttered in frustration due to suspect denials (Griffiths & Milne, 2006; Kelly et al., 2015). That is, the interviewers may have held no strong beliefs about guilt one way or the other. Yet, when all the interviews were taken together, it became clear that the investigators entered the interview with the intention to prove one scenario correct – that the suspect was involved in the murder of his acquaintance. It is not until the final interviews that the dialogue suggested the interviewers may have entertained a second scenario - that the suspect was at the scene and knew who committed the murder or was an accomplice. Nevertheless, in both scenarios it is clear the interviewers believed that the suspect was guilty of something and that remained the focus of the interviewers until the final interview.

Conclusion

The typologies currently used by researchers to evaluate question types do not contain a specific category for guilt-presumptive language. Identifying those types of utterances can prompt evaluators to investigate the interviews more closely, which may reveal how an interviewer's

accusatory and insinuating language can negatively influence the interview outcomes. A cursory evaluation of interview question types can provide useful information about how the interview was conducted overall. However, there is a need for researchers to examine the content of interviews more closely, to identify guilt-presumptive language, and to build a literature that can be used to further research in investigative interviewing, improve the interviewing process, and inform the practitioners who use interview outcomes in their legal decision-making.

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Appendix A

Definitions of Question Types

Question Type	Definition	Examples
Accusatory	<ul style="list-style-type: none"> Directly accuses the interviewee of wrong doing Implies that the interviewee was involved in wrong doing Asks why the interviewee committed a wrong doing 	<ul style="list-style-type: none"> - I know you cheated, just tell me how. - If you didn't cheat then how did you get 100% - Why did you cheat?
Other	<ul style="list-style-type: none"> Does not advance the interview in any way Pleasantries or small talk Well-being check 	<ul style="list-style-type: none"> - Would you be willing to redo the test? - How are you today? Are you a student here?
Neutral	<ul style="list-style-type: none"> Seeks to gather more information pertaining to the case Asks for clarifying details Asks for perspective 	<ul style="list-style-type: none"> - Tell me what you did when... - Were you left alone during the test? - Did you find the test easy or difficult?
Open Question (TED)	<ul style="list-style-type: none"> Allows for the interviewee to provide detail and longer answers Contains or implies to Tell, Explain or Describe to provide a complete answer 	<ul style="list-style-type: none"> - Tell me what happened when you entered the room. - Explain the process to me. - Describe the test, please.
Question Type	Definition:	Examples:
Probe	<ul style="list-style-type: none"> Asking a follow-up question to fully understand the response Obtaining specific or more in-depth information Who, what, where, when, why, how questions 	<ul style="list-style-type: none"> - I don't know what you mean by XYZ. Can you clarify? - Jason? Who is that? - You said she fell. When she fell, did she injure any part of her body?
Appropriate closed (AYN)	<p>*Context specific – gaining additional information or clarifying information</p> <ul style="list-style-type: none"> Answered with a short response (one or two words) Can be used to clarify Includes appropriate use of echo questions Used to obtain facts quickly 	<ul style="list-style-type: none"> - Were you driving that day? - Is Jason your brother? - [Person states XYZ], [Interviewer responds] XYZ? (this prompts for further information or clarification) - Are you employed? - Just to be clear, I heard you say XYZ, do I [have that right/ understand that correctly]?
Leading	<ul style="list-style-type: none"> Suggests or encourages the answer 	<ul style="list-style-type: none"> - Just to be clear, you were <u>very drunk</u>, right?

	<ul style="list-style-type: none"> Respondent is manipulated to agree with inserted qualities or circumstances that have not been previously offered by the respondent 	- Are you always <u>aggressive</u> when you drink?
Question Type	Definition:	Examples:
Inappropriate closed (IYN)	<ul style="list-style-type: none"> Context specific – used at the wrong point in the interview, or excessively repeating the answer in question format (echo) as a means of clarification Answered with a short response (one or two words) Includes inappropriate use of echo questions 	<ul style="list-style-type: none"> - Do you know this man? - When she fell did she hit her head? (when no mention of a head injury was made) - You went to the store? You went by car? You bought bread? You returned home?
Forced Choice	<ul style="list-style-type: none"> Limits responses to finite choices 	- Was the woman blond or brunette?
Multiple	<ul style="list-style-type: none"> Many questions asked at once Interviewers taking turns asking a barrage of questions Rapid fire questions 	- When you arrived, who was there? What did you do when you got there, and how many people were already drinking?
Opinion/ Statements	<ul style="list-style-type: none"> Posing opinions Making statements (not posed as questions) as opposed to asking questions. 	<ul style="list-style-type: none"> - I think you have more to say and just don't want to cooperate. - Let me tell you how easily a night of drinking can go horribly wrong...
Guilt Presumptive language	<ul style="list-style-type: none"> Direct accusations of guilt or involvement Insinuations of guilt or involvement Implied guilt or involvement 	<ul style="list-style-type: none"> - We know you killed her, just tell us why! - I once interviewed a cold-blooded killer who was just as relaxed as you are.

Appendix B

Table of Transcription Symbols

Symbol	Name	Use
/text /	Back slash	Indicates the start and end points of overlapping speech.
=	Equal Sign	Indicates the next utterance occurs immediately by the next speaker with no pause.
(# of seconds)	Timed Pause	A number in parentheses indicates the time, in seconds, of a pause in speech.
(.)	Micropause	A brief pause, usually less than 0.2 seconds.
-	Hyphen	Indicates an abrupt halt or interruption in utterance.
ALL CAPS	Capitalized text	Indicates shouted speech.
underline	Underlined text	Indicates the speaker is emphasising or stressing the speech.
:::	Colon(s)	Indicates prolongation of a sound
(hhh)		Audible exhalation or sigh
(text)	Parentheses	Speech which is unclear or in doubt in the transcript.
((<i>italic text</i>))	Double Parentheses	Annotation of non-verbal activity.
[text]	Square brackets	Notes and context outside of the utterances that are needed for full comprehension. Also includes words omitted for anonymity.

Note: Most symbols are adapted from Jefferson (1984)