The 'appropriate adult': what they do and what they should do in police interviews with mentally disordered suspects.

Running head: The appropriate adult in police interviews

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Background: In almost all countries worldwide, the first point of contact with the criminal justice system is with the police. A large proportion of these individuals may have vulnerabilities, such as mental health difficulties. Given the complexities associated with vulnerable suspects, such interviews may be compromised, which could lead to a miscarriage of justice. In England and Wales, the Police and Criminal Evidence Act (PACE) 1984 and its accompanying Codes of Practice lay down requirements for interviewing vulnerable suspects and provide for attendance of 'appropriate adults' to support communication between police and the vulnerable suspect. To date, however, their role has been under-researched.

Aims/Hypotheses: To explore the role of appropriate adults in police interviews and test the hypotheses first that appropriate adults more commonly remain passive during interview than expected from guidance and, secondly, that any interventions are more likely than not to follow examples in current guidance.

Methods: Transcripts of police interviews conducted with suspects with possible mental disorder and an appropriate adult present (N = 27) were analysed using a specially developed coding framework.

Results: Appropriate adults were significantly more likely to remain passive than to intervene, even when current guidance would suggest intervention. When they did intervene, however, such interventions were significantly more likely than not to follow from guidance and the vulnerable suspect's needs.

Conclusions/Implications for practice: In our sample, appropriate adults were not fulfilling their role as outlined in the Police and Criminal Evidence Act (PACE) 1984 and accompanying Codes of Practice, specifically, they appeared to know what to do but not when to do it. There is a heightened risk of a miscarriage of justice in such circumstances without improvements.

Introduction

Regardless of jurisdiction, the first contact individuals entering the criminal justice system will have is likely to be with the police. Many of these individuals have mental disorders (Arboleda-Florez & Holley, 1998). Whilst each country will have its own provisions when dealing with vulnerable suspects, in England and Wales the implementation of the Police and Criminal Evidence Act (PACE)1984 and its accompanying Codes of Practice allows for the appropriate adult.

The role of the appropriate adult is to advise and support the vulnerable suspect appropriately, to ensure that the interview is being conducted properly and fairly, and to facilitate communication (PACE, Code C, s.11.17, 2014). Despite the importance of such a role, appropriate adults have received little attention in the psychological literature since the role was first created (Pierpoint, 2011). Research to date has found appropriate adults to be 'passive' in their role (Evans, 1993; Pierpoint, 2001), which is of concern given the risk of miscarriages of justice. Furthermore, the custodial environment can exacerbate existing mental health problems and impede the suspect's ability to comprehend the judicial process. This can lead to the vulnerable suspect providing misleading or inaccurate information at this early stage of the criminal justice process (Davis & Leo, 2006; Gudjonsson, 2003a; NAAN, 2015).

Police custody and the suspect with mental disorder

The process of being arrested and taken into police custody is intrinsically stressful (Newburn, 2013); someone with an existing mental disorder is likely to find it exceptionally so (HMIC, 2015). Vulnerable suspects have reported that they often do not understand what is happening or why and highlight uncertainty about what to say or do when being interviewed by the police (Hyun, Hahn, & McConnell, 2014). Perhaps as a partial

consequence, research has consistently shown that suspects with mental disorder are at heightened risk of falsely confessing to crimes (Kassin & Gudjonsson, 2004; Littlechild, 2001; Redlich, 2004). There is also the risk of further harms – for example death of the suspect in custody if accurate communication is not ensured (Hannan, Hearnden, Grace, & Burke, 2010; Shaw et al., 2013; Teers, 2014). Scholars have indicated that using safeguards, including an appropriate adult, will assist in preventing some deaths (Heide & Chan, 2016).

The appropriate adult and the suspect with mental disorder: current knowledge

Despite introduction of the appropriate adult safeguard, the extent of its effect is scarcely documented. Research to date has tended to focus on appropriate provision of appropriate adults when vulnerable individuals first enter custody (see Cummins, 2007; McKinnon & Grubin, 2010). It has been established that the number of police interviews which should be conducted in the presence of an appropriate adult does not marry with the expected number of vulnerable prisoners (Cummins, 2011).

A separate line of research has been to explore what is expected in practice from an appropriate adult service, with focus on availability and delays in securing services (Bath, 2014; Cabinet, 2002; Jessiman & Cameron, (2017). Research also shows that the police prefer certain types of appropriate adults; Pierpoint (2000, 2006) indicated that police officers would rather work with professionals who have received additional training and ongoing continuous development according to the requirements of the National Appropriate Adult Network, rather than family members or social workers who ‘step’ into the role without any specific training.

In light of the scant research, our aims were to explore the actions of appropriate adults during police interviews involving suspects with mental. Our research questions included the extent to which the appropriate adult intervened, when and whether there were

missed opportunities, and whether such interventions were in line with PACE, Code C guidance (Home Office, 1984). Although there have been a number of updates in the guidance since then, those relating to appropriate adults have hardly changed and, in the period of data collection, the police were using original guidance in this respect. In light of Evans (1993) and Pierpoint's (2001) research, our hypotheses were that appropriate adults would be more likely to remain passive during interview than expected according to Code C guidance. We also explored the extent to which appropriate adult intervention content followed current guidance.

Method

Ethical approval was gained from the Faculty of Humanities and Social Sciences at the University of Portsmouth. In addition, the principal researcher was security-vetted in order to obtain the data, Interview transcripts were anonymised.

Design

A within-subjects design was used to measure: (a) number of actual interventions by appropriate adults and (b) number of 'missed' interventions by appropriate adults. Analysis also explored the extent to which intervention content fitted with standard guidance.

Sample

Five police forces, collectively covering a population of about 14.6 million citizens, were asked to provide samples of police interviews conducted in the presence of an appropriate adult with suspects with mental disorder who had been implicated in a serious offence, such as murder, life threatening violence, sexual offences. Data relate to the period 2002-2015. Twenty-eight interviews were received but one had to be excluded as, although

the suspect was recorded as having a mental disorder, the interview did not, in fact, involve an appropriate adult. The police interviews were included if: (a) the vulnerable suspect involved in the interview provided an account to the interviewing officer; (b) an appropriate adult was present; and, (c) the case was classified as closed. Whilst all participating police forces had access to an appropriate adult scheme, it was unclear if the cases drew upon appropriate adults from these schemes, or were other professionals working as appropriate adults, or were relatives/guardians.

Materials

A coding framework was developed from Code C guidance on the role of the appropriate adult and drawing on previously reported research (e.g. Medford et al., 2003). This framework had four sections; (a) general sample characteristics, including demographics of the suspect, the interviewing officers and additional persons present, and the interview outcome, (b) interventions by the designated appropriate adult that fell within guidance criteria, such as ensuring the understanding of legal rights and caution, and assisting with the suspect's communication, (c) interventions by the appropriate adult which fell outside this list, such as answering questions on behalf of the suspect or adopting the role of the second interviewing officer, and (d) interventions that were missed by the appropriate adult (see Table 1).

Procedure

The researcher initially read each police interview to become familiar with the data. Each utterance (or apparent lack of it) during the interview from the appropriate adult was systematically coded according to the coding framework. Following the coding of all of the police interview data, an independent researcher (a current serving police officer) was

provided with the coding framework and guide and coded approximately 25% of the interview data. An agreement level of 95% was achieved, indicating an excellent level of agreement between the two coders.

The data were then analysed using a number of t tests to explore whether appropriate adults (a) intervened or not when there was, according to Code C guidance, a case for doing so, and, (b) whether these interventions were in accordance with what is expected of the appropriate adult role as per current guidance.

Results

General characteristics of the samples

Of the 27 interviews, 21 suspects were men, 17 of the main police interviewers were men, as were 20 of the second police interviewers. A legal advisor was present in the majority of interviews (23). In a small number of interviews, a mental health nurse (n = 1) or a doctor (n = 1) was also present in addition to the appropriate adult and police. There is evidence from the existing literature that this gender distribution among suspects and interviewing officers and the likelihood of attendance by a legal advisor is typical of such interviews (Baldwin, 1993; Leahy-Harland, 2013; Moston, Stephenson, & Williamson, 1992; Soukara, 2004).

According to the custody records database, five of the suspects had schizophrenia, two had other psychoses, three had depression, two dissociative identity disorder, one anxiety and one borderline personality disorder, with the rest (n = 13) were recorded as having an unspecified mental disorder. There was no indication of comorbidity in this database.

Most suspects were being interviewed about a murder or attempted murder (n = 20) five were rape suspects, one a suspect of sexual assault against an adult and one sexual assault against a child. Twelve of the suspects denied the offence, 12 made a full admission and three a partial admission.

Appropriate v Missed Interventions

Appropriate adults were significantly less likely to intervene according to guidelines (mean = 1.04, SD = 2.24) than they were to miss a guideline opportunity to intervene (mean = 7.48, SD = 5.23), t = 6.44, p = 0.001;see also Table 1).

Table 1 about here

Inappropriate v Missed Interventions

Instances during the investigative interview when the appropriate adult intervened when it was not necessary to do so, according to the guidance, were also compared to instances s/he would reasonably have been expected to intervene, based on guidance, but did not. Appropriate adults were significantly less likely to intervene, inappropriately (mean = 0.33, SD = 1.04) than they were to miss a reasonable opportunity to intervene (mean = 7.48, SD = 5.23; t = 6.71, p =0 .001).

Appropriate v Inappropriate Interventions

The final set of analyses focused on whether the interventions made by the appropriate adult were deemed appropriate, again based on Code C guidance. Table 1 confirms that when interventions were made, they were significantly more likely to be appropriate according to guidance (mean 1.04, SD = 2.24) than 'inappropriate' (mean 0.33, SD = 1.04; t = 2.06, p = 0.05).

Discussion

Appropriate adults in this representative sample police interviews frequently failed to intervene when PACE based guidance suggests they should have. Missed opportunities to intervene were more common than making an intervention. When interventions were made, they were more likely to be appropriate (in accordance with guidance) than not. Our results support prior findings (Evans, 1993; Pierpoint, 2001). The passivity of the appropriate adult coupled with the complexities of the vulnerable suspect could present a clear challenge in the criminal justice system. A lawyer was almost always also present in this series, which may have affected the extent to which the appropriate adult felt obliged to act in role, but as the chances of accessing legal advice fall under cuts in legal aid, if appropriate adults do not intervene more vulnerable suspects may be placed at a heightened risk of providing misleading and inaccurate information whilst not fully understanding their legal rights or the custodial process. Well documented miscarriages of justice have occurred as a result of failures to support vulnerable suspects within an interview context (Gudjonsson, 2018).

Research focusing on the role of appropriate adults is scant, however three studies now highlight that opportunities to intervene and support vulnerable suspects are widespread. It is important to raise awareness of these findings so that appropriate adults receive the support they need to implement the available guidance. Previous research has highlighted differences between trained appropriate adults and family members in fulfilling this role (Evans, 1993; Medford, Gudjonsson, & Pearse, 2003). Thus, one limitation of our study is that it was not clear from the records we obtained whether the appropriate adults were part of a trained pool, or were family members acting in the appropriate adult role. Future research should seek to obtain this information as it has potential to inform who act best as an appropriate adult in differing circumstances, and different training needs. The effect of having a lawyer also present at interview should also be evaluated.

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References

Arboleda-Florez, J. & Holley, H. (1998). Criminalisation of the mentally ill: Part II initial detention. *Canadian Journal of Psychiatry, 33*, 87-95. doi: 10.1177/070674378803300203

Baldwin, J. (1993). Police interview techniques: Establishing truth or proof. The British Journal of Criminology. 33(3), 325.

Bath, C. (2014). *NAAN Briefing: Liaison and diversion and the provision of appropriate adults for mentally vulnerable adults.* London: National Appropriate AdultNetwork.

Cabinet Office. (2002). *PACE Review: Report of the Joint Home Office/Cabinet Office Review of the Police and Criminal Evidence Act 1984*. London: Home Office.

Cummins, I. (2007). Boats against the current: Vulnerable adults in police custody. *The Journal of Adult Protection, 9*, 15-24. doi: 10.1108/14668203200700003

Cummins, I. (2011). 'The other side of silence': The role of the appropriate adult post Bradley. *Ethics and Social Welfare, 5*, 306-312. doi: 10.1080/17496535.2011.597163

Davis, D. & Leo, R. (2006). Strategies for preventing false confessions and their consequences. In M. Kebbell & G. Davies (Eds.), *Practical psychology for forensic investigations and prosecutions* (pp. 121-149). New York: John Wiley & Sons.

Evans, R. (1993). *The conduct of police interviews with juveniles. Royal Commission on Criminal Justice Research Report No. 8.* London: HMSO.

Gudjonsson, G. (2003a). *The psychology of interrogations and confessions. A handbook.* Chichester: Wiley.

Gudjonsson, G. (2018). *The psychology of false confessions. Forty years of science and practice.* Chichester: Wiley.

Hannan, M., Hearnden, I., Grace, K., & Burke, T. (2010). *Deaths in or following police custody: An examination of the cases 1998/99-2008/09.* London: Independent Police Complaints Commission.

Heide, S. & Chan, T. (2016). Deaths in police custody. *Journal of Forensic and Legal Medicine, 57,* 109-114. doi: 10.1016/j.jflm.2016.01.026

HM Inspectorate of Constabulary. (2015). *The welfare of vulnerable people in custody.* London: HMIC.

Home Office. (1984). *Police and Criminal Evidence Act.* London: Home Office.

Hyun, E., Hahn, L., & McConnell, D. (2014). Experiences of people with learningdisabilities in the Criminal Justice System. *British Journal of Learning Disabilities, 42,* 308-314. doi: 10.1111/bld.12076

Jessiman, T. & Cameron, A. (2017). The role of the Appropriate Adult in supporting vulnerable adults in custody: Comparing the perspectives of service users and service providers. *British Journal of Learning Disabilities, 45,* 246-252. doi: 10.1111/bld.12201

Kassin, S. & Gudjonsson, G. (2004). The psychology of confessions: A review of the literature and issues. *Psychological Science in the Public Interest, 5,* 33-67. doi: 10.1111/j.1529-1006.2004.00016.x

Leahy-Harland, S. (2013). Police interviewing of serious crime suspects. (Unpublished doctoral dissertation). University of Leicester, Leicester.

Littlechild, B. (2001). *Appropriate Adults and Appropriate Adult schemes: Service user, provider and police perspectives.* Birmingham: Venture Press.

McKinnon, I. & Grubin, D. (2010). Health screening in police custody. *Journal ofForensic and Legal Medicine, 17*(4), 209-212. doi: 10.1016/j.jflm.2010.02.004

Medford, S., Gudjonsson, G., & Pearse, J. (2003). The efficacy of the appropriate adult safeguard during police interviewing. *Legal and Criminological Psychology, 8,* 253-266. doi: 10.1348/135532503322363022

Moston, S., Stephenson, G.M., & Williamson, T.M. (1992). The effects of case characteristics on suspect behaviour during police questioning. British Journal of Criminology, 32, 23-40.

National Appropriate Adult Network (NAAN). (2015). *There to help: Ensuring the provision of appropriate adults for mentally vulnerable adults detained or interviewed by police.* London: National Appropriate Adult Network.

Newburn, T. (2013). *Criminology.* Abingdon, UK: Routledge.

Pierpoint, H. (2000). How appropriate are volunteers as 'Appropriate Adults' for young suspects? *Journal of Social Welfare and Family Law, 22,* 383-400. doi: 10.1080/014180300750051898

Pierpoint, H. (2001). The performance of volunteer Appropriate Adults: A survey of call outs. *The Howard Journal, 40,* 255-271. doi: 10.1111/hojo.2001.40.issue-3

Pierpoint, H. (2006). Reconstructing the role of the Appropriate Adult in England and Wales. *Criminology and Criminal Justice, 6*(2), 219-237. doi: 10.1177/1748895806062982

Pierpoint, H. (2011). Extending and professionalising the role of the Appropriate Adult. *Journal of Social Welfare and Family Law, 33*(2), 139-155. doi: 10.1080/09649069.2011.617071

Redlich, A. (2004). Mental illness, police interrogations, and the potential for false confession. *Law and Psychiatry, 55,* 19-21. doi: 10.1176/appi.ps.55.1.19

Shaw, J., Wainwright, V., Webb, R., Appleby, L., Piper, M., Rees, J., & Elder, R. (2013). *National study of self-inflicted death by prisoners, 2008-2010.* Manchester: University of Manchester.

Soukara, S. (2004). Investigating interviewing of suspects: Piecing together the picture. (Unpublished doctoral dissertation). University of Portsmouth, Portsmouth.

Teers, R. (2014). Deaths during or following police contact: Statistics for England and Wales 2013/14. IPCC Research and Statistics Series: Paper 27. London: IPCC.

Table 1. Types of Appropriate Adult Intervention*

	Type of AA Intervention	Mean	Standard Deviation
Appropriate	Prompt officer to inform suspect of role and duties of AA	.05	.23
	Explain interview process/use of Legal Advisor	.04	.19
	Clarify decision re: use of Legal Advisor	.04	.19
	Remind suspect of legal rights	.07	.39
	Provide additional information to the Legal Advisor	.07	.27
	Confirm role as an AA and not a Legal Advisor	.04	.19
	Inform officer of suspect misunderstanding of question or the need for clarification	.15	.53
	Encouraging suspect to take additional time to respond	.04	.19
	Assist in explanation of drugs test	.04	.19
	Assisting with CCTV	.04	.19
	Inform officer of suspect distress (if not noted by the officer)	.19	.48
	Highlighting the suspect requires a break	.04	.19
	Confirmed case was not discussed in break	.04	.19
	Inform officer the suspect is still awake	.15	.78
	AA highlight own distress	.04	.19
	Read witness statement to suspect	.04	.19
	Sign witness statement on behalf of suspect	.04	.19
	Read significant statement to suspect	.04	.19
	Sign significant statement on behalf of suspect	.04	.19
Inappropriate	Challenging the suspect account	.04	.19
	Adopting the role of the officer, e.g. questioning the suspect	.19	.79
	Providing an opinion on the suspects' mental health	.07	.39
	Clarifying points of evidence	.04	.19
Missed	Prompt officer to check suspect's understanding of legal rights	.63	.50
	Prompt officer to check suspect's understanding of caution	.26	.45
	Prompt officer to inform suspect of AA role and duties	.16	.38
	Long interview/failure to ask for a break/not receiving a break when requested	.67	1.04
	Suspect misunderstanding of question or the need for clarification	1.19	1.27
	Officer requiring assistance in understanding suspect account	.11	.32
	Requiring visual tool to assist understanding	.19	.48

* The following table reports the means and standard deviations of the Appropriate Adults' actual and missed interventions, and the appropriateness of such interventions.

	Suspect appearing distressed/mental health issues not acknowledged	1.11	1.87
	Inappropriate challenging from the officer	1.41	1.53
	Constant interruption from officer	.04	.19
	Officer leading the suspect/suggesting responses	.59	1.01
	Suspect guessing in responses	.74	1.16