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Baker, D

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Abstract

This paper examines the use of narrative verdicts in the coronial system in England and Wales to record findings in cases of death after police contact. It uses a data set of 68 verdicts into such cases in the period 2004-2015. The paper considers how regulation is constructed in a way that makes complex cases comprehensible through narrative. The construction of these narratives is affected by legal structures, institutional structures, but also the structures imposed by narrative convention. The paper argues that the relationships between these structures affect what type of narrative is constructed in the aftermath of a death after police contact. It further suggests that devices within narratives enable the construction of a comprehensible narrative verdict in such cases.

Keywords: Police, deaths, accountability, coroners' courts, narrative.

Deaths after police contact in England and Wales

Between 2004 and 2015 a total of 1539 people died after contact with the police in England and Wales (IPCC, 2016). The term 'death after police contact' (DAPC) used throughout this paper adopts criteria from the Independent Police Complaints Commission (IPCC) in regard to 'deaths during or following police contact' from their annual statistical analyses (see, for example IPCC, 2016). Cases of DAPC in England and Wales are typically investigated by two independent organisations, the coronial system, and the IPCC. This paper examines the processes and practices of the coronial system as it constructs accountability in cases of DAPC. It discusses how narrative structures, conventions and devices both enable and constrain the construction of verdicts in the coronial system, and consequently affect how accountability is constructed in cases of DAPC in England and Wales.

The capacity of the state and society to hold police to account in cases of DAPC is seen to be a touchstone for legitimate, transparent and consensual policing in England and Wales (Savage, 2013; Smith, 2009). Deaths after police contact are significant because the state bears unique responsibility for the welfare of citizens in their care, and such deaths may be viewed with suspicion by the public, hence the relevance of the coronial system in providing regulation in such cases (Shaw & Coles, 2007; Levine, 1999). Such cases are complex due to multi-causality in relation to the death, and because more than one emergency service tends to have had contact with the deceased (see, for example: IPCC, 2016; Baker 2016a, Casale, Corfe & Lewis, 2013). The paper sheds light on both coronial

practices, and the way in which narrative is used to record verdicts in cases of DAPC. As such, it represents an original contribution to criminological research into how narrative affects the construction of accountability in such cases.

Coronial regulation of deaths after police contact

Deaths after police contact in England and Wales are typically investigated in the coronial system (Parliament, 2009). Cases are usually heard in public, before juries, in a forum that is inquisitorial as distinct to adversarial (Matthews, 2014). A coroner's inquest is held to be a fact-finding exercise that may not ascribe guilt or liability. Coronial inquests have manifold purposes, two of which are to investigate suspicious deaths in a public forum, and to learn lessons which may enable the prevention of future deaths (Luce, 2003). The state has made numerous official pronouncements underlining how important lesson learning is in reducing the number of deaths after police contact (see, for example Fulton, 2008; House of Commons Select Committee on Home Affairs [HAC], 2010; Joint Committee on Human Rights [JCHR], 2004). Coroners fulfil the legal obligations of the state as set out by the European Convention on Human Rights (ECHR) in relation to deaths in state detention (Baker, 2016b). They must pay particular regard to article 2 of the ECHR which enshrines the right to life of citizens. The significance of article 2 of the ECHR has been to impose an 'evidential burden' upon the state in terms of how it investigates such cases (Matthews, 2014). It requires the state to provide an explanation of such a death that is satisfactory and convincing.

Coronial practice is also guided by statute and precedent (Dorries, 2004). Changes to practice in inquests involving deaths in state detention have been effected primarily through precedent (Matthews, 2014). A key change wrought by article 2 of the ECHR is the definition of 'how an individual came to meet their death'. Prior to the enactment of the 1998 Human Rights Act, this was considered to be 'by what means' they came to meet their death, whereas it is now interpreted as 'in what circumstances' (Widdicombe, 2012). This has affected coronial practice at inquests into cases of DAPC. These are termed 'article 2 inquests' and considered to be more rigorous, and broader in scope than was previously the case (Baker, 2016c; Thomas, Straw & Friedman 2008). In particular, article 2 inquests consider systemic and organisational issues relating to such deaths, rather than focusing purely on what individuals did, or did not, do in relation to events leading to a death (Baker, 2016a; Matthews, 2014). Changes to practice in inquests have also produced changes to the outcomes of article 2 inquests in the form of narrative verdicts. Thus narrative can be used to construct an explanation of how a citizen dies after police contact. This paper examines the factors that affect the construction of such a narrative and considers what this might tell us about the complex processes that inform its production.

Narrative verdicts

Luce (2003) believed narrative verdicts could provide clarity in contentious cases where there are typically multi-causal reasons for the death. Narrative verdicts do not have a standardised format and can vary in length from three sentences to three pages. They may be handwritten by the jury, and may incorporate a questionnaire prepared for the jury by the coroner. The essentially regional nature of the coronial service means that juries have a good deal of latitude in what they include in a narrative, and how they structure it (Baker, 2016a). They enable the jury to set out the key facts they believe to be relevant in explaining how an individual meets their death. Narrative verdicts have emerged largely as an unintended consequence of changes imposed by article 2 of the ECHR (Baker 2016b). As a result, they represent somewhat of an anomaly in the coronial world, as they do not exist in other English speaking common-law based jurisdictions that use coronial systems (for example, Australia, New Zealand, Canada, or the US); nor do they occur in Scotland or Northern Ireland.

Narrative verdicts differ from other forms of verdicts principally because of the scope of findings recorded by the jury (Matthews 2014). This produces a significant amount of detailed findings in cases of DAPC, which in turn means that we know more about the circumstances involved in such deaths, and can thus consider potential interventions as a result (Baker 2016a). As such, examining the various contexts that affect the construction of narrative verdicts can aid criminological understanding of the complex issue of DAPC. If collated and analysed at a national level, narrative verdicts could provide a way to learn lessons that prevent future deaths (Coles & Shaw, 2012).

Dorries (2004) notes that narrative verdicts function as statements of findings rather than as labels, as is the case with more typically used short-form verdicts. In 2013 the Chief Coroner declared that the term 'verdict' should be replaced with 'determination', albeit that it still tends to be reported as a 'verdict' by the media (Matthews, 2014). Coroners typically now refer to it variously as a 'conclusion', a 'determination' or as 'findings' (Baker, 2016b). To date, narrative verdicts have received relatively little attention from academic writers. Exceptions are Scraton (2006) who examined their use in holding the prison system to account for deaths in custody; Carroll et al. (2012) and Hill & Cook (2011), who focused on the effect of narrative verdicts on the analysis of general mortality data; McIntosh (2012), who examined narrative verdicts in relation to providing accountability to children's next of kin; and Pilkington et al. (2014), who considered the possible use of narrative verdicts to learn lessons in the aftermath of road traffic accidents. This paper adds to this literature by investigating how narrative verdicts can inform our knowledge of coronial practices in relation to cases of DAPC and how accountability is constructed in these cases.

As previously noted, deaths in state detention are notable for being marked by multi-causality. Using narrative verdicts is one way in which detailed findings can be recorded in relation to such deaths, and thus enable audiences to make sense of how an individual came to meet their end (Coles & Shaw, 2012). This must be qualified with the prescriptions imposed by the structural requirements of the coronial system, one cogent example of which is that juries may not ascribe liability in verdicts. Thus, although narrative verdicts enable the recording of greater detail, they are also constrained by the structural requirements of the coronial system. As the coronial system in England and Wales is essentially a regional service (Chief Coroner, 2014) this also affects the central collation of data recorded in narrative verdicts and necessarily limits institutional learning in such cases (Baker, 2016a). That narratives both enable and constrain the capacity of institutions to learn lessons in the aftermath of such deaths demonstrates that the construction of narrative verdicts exists in a complex series of contextual relationships, as is examined throughout this paper. Examining these relationships in relation to the construction of narrative gives us an insight into an area on which criminological research is relatively sparse.

Narrative verdicts are increasingly used in cases of death in state detention (Baker, 2016b). The Ministry of Justice (2015) note that their use rose by 18% in the period 1995-2014. As they are increasingly used to record outcomes in cases of DAPC, and as such cases represent contentious deaths that go to the heart of police legitimacy and accountability, it is timely to consider how these verdicts are constructed, and what they might tell us about accountability construction in cases of DAPC in England and Wales. Because verdicts are set out in narrative form, the paper now turns to consider how this fits within the context of narrative criminology, before going on to consider the data and methods used for the paper, and then examining the various functions and structures of narrative.

Narrative criminology

Narrative criminology has emerged as a sub-discipline in criminology, although narrative has been increasingly used as a research perspective in other social-scientific and humanities disciplines for some time (Presser & Sandberg, 2015). Analysing narrative approaches can aid understanding of complex criminological issues in addition to issues about which relatively little is known (see, for example Sandberg, Tutenges & Copes, 2015). Thus Presser & Sandberg (2015a, p10) note: 'The important insight for narrative criminology is that narratives are part of larger meaning-making structures and that these are embedded in social institutions.' The situated nature of narrative in the context of wider socio-political systems is fundamental to understanding how narrative verdicts are

recorded, particularly given the complex and contentious nature of cases of DAPC. Examining how coronial juries construct narratives therefore considers complex issues that go beyond the coronial system and the events it considers in relation to cases of DAPC. These issues include legal and social structures, linguistic conventions, forms of discourse and official truth telling; all of which may be considered to add to the increasing trend towards narrative criminology examining previously under-explored but relevant subjects in criminology.

Much of the extant literature on narrative criminology focuses on the narratives of offenders. Presser's (2009) paper set out what might be called an invitation to narrative criminology in terms of using it to understand offenders' motivations and identities; in a later (2012) paper she used a similar approach to understand the actions of a mass-murderer. Colvin (2015) considered offender narratives in terms of aiding researchers' understanding of offenders' actions. Sandberg's (2010) paper argued that rather than discuss whether participant narratives were truthful, it would be more productive to consider them as a way of investigating the complex interplay between culture, identities and values. His (2013) paper examined narratives produced by the Norwegian mass killer Anders Breivik in an attempt to understand the cultures and contexts that shaped his identity and thus his actions. In a later paper Sandberg, Tutenges & Copes (2015), examined narrative types used by drug dealers in terms of their inherent ambiguity as they contained multiple meanings and dealt with multiple contexts.

Presser & Sandberg (2015, p298) note that: 'narrative criminology is still in the making.' The current paper examines narrative from the perspective of juries in coroners' courts rather than from offenders' perspectives. In coronial cases there are no crimes, and thus no offences, because the coronial system is inquisitorial. The paper considers the multiple contingencies that shape and mediate the production of such narratives, and in so doing examines ideas and concepts from literary theory, including mechanisms used to construct explicable narratives. It considers the functions and structures of narrative, the contexts in which it is produced, how contextualisation enables comprehension, and the role of episodic structure and character types in facilitating the construction of comprehensible narratives. As such, it adds insight to our criminological understanding of how accountability is constructed in cases of DAPC, in addition to extending the canon of literature on narrative criminology to include coroners, policing, death and the use of documents to research narrative criminology.

Methods

This paper uses a dataset of 68 narrative verdicts recorded in cases of DAPC in the period 2004-15 in England and Wales. They represent the views of juries as shaped and directed by coroners in these cases and consequently provide insight into how evidence is used by juries to make sense of complex, multi-causal cases of DAPC. The data is qualitative as it represents the views of jury members deliberating on each case. Consequently, the data is rich in detail, but limited to some extent in terms of generalisability due to the relatively small sample. Although 1539 citizens died after police contact in England and Wales in this period (IPCC, 2016) it cannot be known how many narrative verdicts were recorded in relation to these deaths due to the regional nature of the coronial system and its relatively limited data collation (Baker, 2016c; Chief Coroner, 2014).

The data for this paper was subjected to framework analysis (Ritchie & Spencer, 1994). First, the researcher became familiar with the corpus of data in order to gain an overview of the nature of its contents. Secondly, familiarisation enabled a thematic framework to be constructed using matrices. Thirdly, a process of indexing took place, to break the matrices down in terms of case numbers and key issues or terms. Fourthly, charting enabled indexing to be used to make associations within and between issues and terms. For example, in the research project that was undertaken, instances of police encounters with citizens who had mental health issues could be linked to specific terms, such as police training and/or communication. Finally, charting led to a process of mapping and interpretation. Maps emerged in the form of typologies such as particular conditions like substance use, or the relationship between restraint and mental health in cases of DAPC. The process of charting and mapping led the researcher to investigate the relevance of narrative theory to the research project in terms of examining how certain structures, plot lines, and characters appeared in specific types of narratives. The quotations used in this paper are selected from specific sentences or sections of narrative verdicts identified as being relevant to the specific issues highlighted by framework analysis. As such, the quotations represent aspects of the narrative verdicts, rather than their totality.

Narrative functions and structures

Narratives exist to fulfil a purpose – in simple terms, to ‘tell a story.’ Berger & Luckman (1972, p54) note that not only is language coercive in that it forces us into its patterns, but also transcendent as it is capable of: ‘making present a variety of objects that are spatially, temporally and socially absent from the “here and now”’. For Labov & Waletzky (1961) one function of narrative is as a reference; key functions of narrative verdicts are that they record who dies, where and when they died, and how

they died (Levine, 1999). Consequently, the verdict orients the consumer of the narrative to the individuals involved in it, the place, the time, and the behaviour of the characters involved. From this perspective, narrative must situate individuals in a time and place and establish their characteristics in order for the wider narrative to be comprehensible (Hyden, 1997).

The structure of narrative is typified by the use of episodic sequence to construct a comprehensible story. Authors concur that the structure of a narrative largely determines the type of content used to construct a story (see, for example Labov & Waletzky, 1961; Todorov & Weinstein, 1969; Van Dijk 1975; Robinson 1981; Bruner 1987; Bauman & Briggs, 1990). Todorov & Weinstein (1969) assert that nearly any 'minimal complete plot' can be characterised as follows: first, an equilibrium is created by establishing the actors present in the context of a series of events. Secondly, an imbalance occurs where this equilibrium is altered, usually by a series of events occurring. Thirdly, a new equilibrium is established whereby an altered set of actors and series of events exists. Van Dijk (1975) charts a remarkably similar three stage structure: exposition, complication, and resolution. These findings chime with Innes's (2003) research on police homicide investigation which discovered that such reports constructed an orderly narrative requiring a beginning, middle and end. Within the dataset, the great majority of narrative verdicts fit this analysis, regardless of whether they are 4 sentences in length or 4 pages. Typically, equilibrium is established by describing the deceased and the context in which they have come to the attention of the police. In the opening lines of these narrative verdicts, examples of Van Dijk's (1975) 'exposition' are apparent:

Case 66: *'Police stopped [the deceased] and others because, based on intelligence, they suspected that the occupants of the car may have been in possession of Class A drugs.'*

Case 33: *'Following reports of [the deceased's] behaviour, the first being reported at 8.45am, police officers attended the scene.'*

There follows a period of imbalance, or 'complication' (Van Dijk, 1975) whereby unfolding events are described, for example:

Case 1: *'[the deceased] continued to struggle against the officers exhibiting extraordinary strength and was restrained on the floor of the cell in the prone position.'*

Case 51: *'During the walk to the [police] van, [the deceased] was physically unwell due to oxygen deprivation which occurred during his restraint in the prone position.'*

Finally, a new equilibrium, or 'resolution' (Van Dijk, 1975) is arrived at: the death of the individual. This equilibrium is contextualised by the jury assessing the actions or omissions of individuals involved during the period of imbalance, for example:

Case 55: *'[the deceased] did not receive an appropriate examination from the M.E¹ due to the omission of basic medical assessment. This constitutes a gross failure.'*

Case 59: *'He was restrained prone until sedation was effective and was then turned over. Unfortunately, he arrested within a minute and died less than two hours later.'*

When physical characteristics are recorded in the initial stage of constructing an equilibrium they situate the individual within a context that requires action to address the situation in which police find themselves. Police are called to deal with an individual often constructed as being potentially dangerous or unpredictable. The police reaction tends to be constructed as rational, necessary and measured, supporting Hyden's (1997) research that narratives structure events and behaviours in such a way as to justify the intervention of authority. Thus the contexts within which narratives are constructed need to be analysed to better understand the content, form and structure that determine the construction of narrative verdicts in cases of DAPC. The analysis of narrative in this sense can aid criminological understanding of the wider contexts that affect how accountability is constructed in cases of DAPC.

Contexts and contextualisation

Bauman & Briggs (1990) note that narrative is constructed within differing contexts. First, the context of meaning relates to the overarching message of the narrative; narrative verdicts must be explicable to social audiences (Baker, 2016a). Secondly, the institutional context in which the narrative is constructed, in this case within the coronial system (Matthews, 2014). Thus contexts can create ambiguity in the construction of narratives as they are produced in a state of tension due to the nature of these complex relationships. This prompted authors (Bauman & Briggs, 1990; Wilson, 2015) to focus on *contextualising* narrative in terms of interactions and relationships between these contexts, hence the need to consider them dialectically. Consequently, relationships between contexts, between structure and content, and between juries and the institutional requirements of the coronial system must be taken into account when considering how narrative verdicts are constructed. Shifting

¹ Medical Examiner

contexts typically produce multiple meanings (see for example Presser & Sandberg, 2015), and this mirrors the complex causality and contentious nature of many cases of DAPC (see, for example Baker, 2016a). Investigating these issues by close examination of such narratives can enable a nuanced criminological understanding of these complex relationships.

Inquests have a tendency to create or impose order on a complex and contentious death. Writing about trauma, Wilson (2015) notes that humans struggle to process events we cannot make sense of, hence the wish to impose order on those events to better understand them. Hyden's (1997) research into narrative construction in social work and psychiatric care found that establishing a coherent story about particular cases meant that a series of events were defined, depicted and ordered. This typically resulted in the intervention of authorities being vindicated on the basis of the acts or behaviours of the individual under the care of the authorities. Thus, whilst inquests produce documents that ascribe the truths of what occurred, numerous authors state that these truths can be highly contentious and emerge through a process of negotiating differing statements and evidence, hence the need to consider dialectical relationships in the process of narrative production (see, for example McMullan, 2007; Goldson, 2006).

The dialectical relationships evident in this paper are firstly, those that emerge at an institutional level in the interplay of contexts and processes between the actors and organisations present within the coronial inquest (see, for example Thomas et al. 2008, Langer et al. 2008). Secondly, the relationships that exist within the processes determining how narrative is constructed, such as the balance between narrative structure and character types (see, for example Wilson 2015, Hermans 2001). The dynamic tensions produced within and between these two relationships shape and mould the final narrative verdict that records the truth about how the deceased came to meet their death after police contact. Institutional reality in inquests is constructed without the lead actor being present. The story of the events leading to their death is told retrospectively, without their input (Hyden, 1997; McMullan, 2007). This leads Langer, Scourfield & Fincham (2008) to note that in inquests, the dead can acquire new identities. In order for this to occur, it is necessary to establish particular types of characters, and it is to this the paper now turns.

Character types: evaluative judgements

Stories require characters. Assigning roles to characters in narrative is key to interpreting how they behave in particular circumstances and why certain events unfold in the way they do (Shuman &

Bohmer, 2004; Youngs & Canter, 2012). In the dataset, when characteristics are mentioned they occur purely about the deceased; there are no instances where actors from institutional organisations are depicted in terms of characteristics. In this sense, the deceased may be seen as the 'lead actor', or protagonist, in the construction of the narrative. The character of the individual is established (in absentia) in order to explain the context of events that subsequently unfold (McMullan, 2007). In some ways, this represents a device for the jury to record aspects of the individual they find to be important in either humanising or dehumanising them, for example:

Case 45: *'[The deceased] was a 39 year old family man with a partner and a very young daughter [name redacted], who was four weeks old at the time.'*

Case 12: *'He did not care for himself correctly showing signs of self neglect as during his drinking he would survive on strong cans of lager and chocolate. His dependency over the years caused him liver disease and jaundice.'*

Both of these examples are evaluative judgements. In the former, the deceased is constructed as a 'family man' whilst in the latter as a dependent individual who does not care for himself. However, both deaths occurred after the individual was arrested for being drunk and incapable. In the first case, the 'family man' construct could reflect Pennington & Hastie's (1986) view that juries infer facts based on their own experiences, much as Taylor (2016) considers the construction of narrative by authors as being constitutive of what they know, or have observed. Thus, Aradau's (2004) observation that pity must be recognisable in order for it to be identified dovetails with both Pennington & Hastie's (1986) and Taylor's (2016) findings. Juries appear more likely to identify with a 'family man' than one apparently dependent on substances. Furthermore, she notes that pity tends to not be demonstrated in cases where 'ills' have been self-inflicted or are perceived as being dangerous to the community (Aradau, 2004). To some extent this echoes Richardson and May's (1999) findings of 'deserving victims' in their study into violence against lesbians and gay men. While neither case above represents a perceived threat to the community, the latter is less deserving of sympathy because his 'ill' is self-inflicted. This illustrates Fairclough's (2003) assertion that in discourse, evaluations are made through phrases rather than through statements, hence the phrases 'family man' and 'strong cans of lager and chocolate' serve as shorthand for wider meanings, supporting Daftary-Kapur, Dumas & Penrod's (2010) observation that juries tend to use 'heuristic shortcuts' in order to construct comprehensible narratives.

The subjective nature of narrative construction enables juries to record whatever they deem relevant. This leads one to consider what character types might be used in narrative construction. As Bruner (1987, p15) notes: 'Life narratives obviously reflect the prevailing theories about "possible lives" that are part of one's culture.' In the discussion above, the characteristics of the deceased are established in terms of values ascribed by the jury. Thus, enquiry transforms subjective terms into objective truths (McMullan, 2007; Foucault, 1994). The construction of actors as types in narrative has been acknowledged in this section; the following section considers how those actors fit into plot types and stories within narrative structures.

'Chekhov's gun': constructing conditions

There are, then, boundaries that determine what can and cannot be said in official discourse about cases of DAPC. Constraining influences include institutional parameters, narrative structure and conventions, character types, social norms, and official discourse. This brings into question what sort of devices and structures juries use to construct narrative verdicts. As discussed above, establishing character types is one way in which individuals may be slotted into narrative structures, but such types can also function as predictors of future behaviour and events.

Narratives possess dramaturgical elements (Todorov & Weinstein, 1969, Bruner, 1987). In literary theory, the axiom of 'Chekhov's gun' relates to a basic principle in staging a theatre production. This states that if the director has placed a gun on the wall in the first episode of the play, it should be used by the final episode. There would be no need to hang it on the wall were it not to be used. As such, it is a prop introduced early in the narrative whose full significance only becomes apparent towards the conclusion of the narrative (Scott, 2012; Gilbey, 2011). The concept is part of a wider explanatory system in literary theory termed 'foreshadowing' (Pettijohn & Radvansky 2016; Booker, 2004). Foreshadowing enables episodic narrative structure to function as it establishes key details in the narrative at an early stage in order to contextualise events that subsequently occur. The majority of examples in the dataset situate the deceased individual within a recognisable frame. This might be as substance abusers, homeless individuals, or those with mental health issues. Examples from the opening lines of narrative verdicts include:

Case 7: *'[The deceased] was a 28 year old male suffering from schizophrenia and diabetes. He was 6ft tall and obese.'*

Case 61: *'The deceased was an epileptic whose compliance with his medication was variable.'*

Case 29: *‘[The deceased] was a single man aged 29 who had abused drugs, particularly heroin and cocaine for many years.’*

In this sense ‘Chekhov’s gun’ can be imagined not as a weapon but as a form of legitimisation that foreshadows the future actions or interventions of police. If the individual is constructed in terms of their pathologies (Sim, 2004) it suggests an inevitability within the context of the narrative that police will have to react to those pathologies if called upon by the public, or other services. By implication, then, it will be the original ‘condition’ of the individual which is predominantly focused upon in the narrative as distinct to subsequent actions or omissions by state agents that may have contributed to their death (Hyden, 1997; McMullan, 2007). In this sense, the story, which is, after all, told retrospectively, is over as soon as it has begun (Taylor, 2016). Contextualising an element of pathology at an early stage of the narrative, appears to signal that an individual is an ‘accident waiting to happen’. Chekhov’s gun represents a device that enables the construction of a clear and comprehensible narrative. The second example, discussed below, suggests a somewhat converse reaction. ‘Hedging’ and ‘specific ambiguity’ represent instances where aspects of the institutional structure within the coronial system effectively produce opacity and ambiguity in the construction of narrative verdicts.

‘Hedging’ and ‘specific ambiguity’

Two discursive practices are principally at play in the construction of narrative verdicts. First, the discursive practice of language, and secondly the discursive practice of institutional processes. One fits within the other, and their dynamic relationship exists as a dialectical process that constructs accountability in the form of narrative verdicts. Emerging from these processes of dialectical contextualisation are manifestations I term ‘hedging’ and ‘specific ambiguity.’

The language permitted in the coronial system constrains narrative construction in the way that acts or omissions are recorded, as it is not possible to ascribe guilt or liability in an inquest. This, however, has not prevented the construction of some highly critical narrative verdicts. What is notable about the more critical verdicts is their ability to hedge with words and formulate sentences that are more emphatic than others. Below, a rising scale of critical statements are outlined, beginning with the relatively cautious:

Case 9: *'Had the appropriate precautions and actions been taken death may have been prevented.'*

Case 20: *'These failings represented a significant loss of opportunity to properly care for and protect [the deceased].'*

Through to the more emphatic:

Case 7: *'In all probability, if [the deceased's] position had been changed and oxygen administered, his chance of survival would have greatly increased.'*

Case 28: Question: *'Are there any further issues which you consider more than minimally contributed towards the death of [the deceased], and if so what are they?'*

Answer:

'Lack of management support and a lack of confidence in management, reflecting in low morale. Therefore the level of care was insufficient.'

NHS staff allowed personal issues to affect their judgement & performance.'

Inadequate nursing records & failure to utilise them.'

To the overtly emphatic:

Case 37: *'We unanimously agree that on the balance of probabilities, the omissions of the ambulance crew contributed to [the deceased's] death.'*

One objective of an inquest is to uncover facts about how the individual came to meet their death. In terms of definitions, the words *blame* and *liability* are synonymous with being *responsible*. In terms of narrative construction, the onus is placed on juries and coroners to develop a lexicon that can identify acts or omissions without ascribing liability. In this sense, the narrative that is constructed occurs as a result of multiple factors. It is a polyphonic process in the sense that its meaning develops from multiple voices and dialectics to produce a unified whole (Belova, King & Sliwa, 2008; Hermans, 2001). Thus there are a number of phrases that sound unusual in conventional language, for example the repeated use of 'more than minimally contributed to' (used in one-fifth of cases in the data set) in relation to actions or omissions leading to a death. Furthermore, there are examples of statements which are hedged to a point where they need to be read more than once to fully appreciate their meaning, for example:

Case 37: *'We do not find on the balance of probabilities deficiencies in the ambulance crew's training caused or contributed to the cause of [the deceased's] death.'*

In this sense, the practice of hedging, caused by structural constraints in the production of narrative verdicts leads to what I term 'specific ambiguity.' Statements are specific in the sense that consideration is given to the formulation of sentences or statements. Woods (2006), writing about discourse and law, observes the use of language in law as being characterised by arcane vocabulary and sentence formulation that demands a specialised lexicon. He goes on to posit that statements: 'frequently result in forms of language which are unusually and even outlandishly explicit, but which can be remarkably vague and open to subjective interpretation or semantic debate' (Woods 2006, p94). The formulations are considered, measured and specific to the discursive forum in which they are produced.

A narrative verdict is not necessarily a unified document, it can include aspects that appear to be at odds with the overall drift of the narrative, and this apparent lack of coherence can be summed up by Belova et al.'s (2008, p495) view of polyphony in organisational meaning, that it: 'represent[s] complex webs of sense-making activities between groups and individuals whose understandings do not simply form a logical sequence but intersect, clash and interfere with each other.' The use of narrative produces more specific detail in the construction of accountability in cases of DAPC, principally because of the discursive practice of narrative formation, yet this must co-exist with the discursive institutional practices within which narrative is constructed. This complex relationship can produce ambiguity and opacity. Writing about discourse analysis, Fairclough (1992, p83) notes that: 'Coherence is often treated as a property of texts, but is better regarded as a property of interpretations.' Thus discrete sections of the text might be coherent, but the entirety of it might not. It could be argued that the way in which the story is told is more consistent than elements within it, suggesting the discursive practice of narrative might override the discursive practices of the coronial system.

Conclusion

Narrative verdicts can produce both clarity and opacity in cases of DAPC. Narrative is constructed in a mediated and polyphonic way to produce an officially recorded version of events in cases of DAPC. In this sense it is the result of various relationships and tensions inherent within its production. Analysing

the relationships between different structures involved in the construction of narrative verdicts is key to understanding how they are produced, and how that affects what they tell us about cases of DAPC – narrative is not produced in a vacuum. In the first instance, Article 2 of the ECHR has been imposed upon the state, and this has affected the way in which cases of DAPC are regulated in the coronial system in England and Wales. That a supra-national structure has enforced change is notable, not least because of the government's stated desire to leave the ECHR in the wake of Brexit (Human Rights Watch, 2015).

Structural change in the context of coronial practice was driven by the precedent of narrative verdicts being recorded more frequently in cases of DAPC. To some degree, institutional structures within the coronial system constrain how narrative verdicts are constructed. Investigating the structures, processes and style of narrative construction enabled an examination of how narrative verdicts are constructed. Evidently juries use types of story construction they are familiar with, not least by using episodic structures and character types to present a relatively orderly and comprehensible narrative that is not only explicable to them, but to wider social audiences. In this sense, the supra-national structure of the ECHR and the institutional structures of the coronial system co-exist with socio-cultural structures in the form of narrative convention. This extends to the inscription of values and judgements within narrative by way of devices such as foreshadowing (in the guise of Chekhov's gun). The relationships between these structures also produces 'hedging' and 'specific ambiguity', which, rather than clarify the narrative, tend to make it more equivocal. In this sense, coronial structures inhibit what can be said, but juries appear to use agency to test the boundaries of those structures, and this can result in aspects of the narrative verdict being critical, or rather opaque.

In the wider analysis, narrative verdicts are part of a coronial system that purports to learn lessons that prevent future deaths after police contact. But in the absence of a system to analyse their content, and because the coronial system is regional, not only is the content of narrative verdicts open to question in terms of learning such lessons, but so is the structure within which they are produced. Initially, narrative verdicts were considered a way in which to shine a light on complex cases, and to hold the state to account in cases of suspicious deaths in custody. The findings from this paper suggest that these verdicts are circumscribed to some degree in terms of what they can say, and that they might have limited value in terms of providing data that enable lessons to be learned due to the structural limitations of the coronial system in England and Wales.

In England and Wales, the coronial system is a principal regulator that constructs accountability in cases of DAPC. Narrative verdicts enable a more accurate record of the facts that led to the death of an individual in these complex cases. Whilst this has produced more data and knowledge about these

deaths, it does not appear to have led to a reduction in the number of people who die after police contact (Baker, 2016a). Whilst campaign groups such as INQUEST have welcomed narrative verdicts as a way of providing a degree of closure for families in these cases, they are also concerned that the detailed and complex messages in narrative verdicts tend to lack the immediacy and impact of short-form verdicts (Hattenstone 2009).

Bibliography

- Aradau, C. (2004). The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking. *Millenium- Journal of International Studies*. 33 (2). 251-278.
- Baker, D (2016a) *Deaths after police contact: constructing accountability in the 21st century*. London. Palgrave-MacMillan
- Baker, D (2016b) 'Deaths after police contact in England and Wales: the effects of Article 2 of the European Convention on Human Rights on coronial practice.' *International Journal of Law in Context*. 12 (2) 162-177.
- Baker, D (2016c) 'Researching deaths after police contact: challenges and solutions.' *Journal of Criminological Research, Policy and Practice*. 2 (1) 15-27.
- Belova, O., King, I & Sliwa, M. (2008). Introduction: Polyphony and Organization Studies: Mikhail Bakhtin and Beyond. *Organization Studies*. 29 (4). 493-500.
- Berger, P. & Luckman, T. (1972). *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*. Harmondsworth, UK. Penguin.
- Booker, C. (2004). *The Seven Basic Plots: Why we tell stories*. London, UK. Continuum.
- Bruner, J. (1987). Life as Narrative. *Social Research*. 54 (1). 11-32.
- Carroll, R., Hawton, K., Kapur, N., Bennewith, O & Gunnell, D. (2012). Impact of the growing use of narrative verdicts by coroners on geographic variations in suicide: analysis of coroners' inquest data. *Journal of Public Health*. 34 (3). 447-453.
- Casale, S., Corfe, M. & Lewis, J. (2013). *Report of the independent external review of the IPCC investigation into the death of Sean Rigg*. Retrieved from: http://www.ipcc.gov.uk/news/Pages/pr_170513_Riggreview.aspx.
- Chief Coroner. (2014). *Report of the Chief Coroner to the Lord Chancellor. First Annual Report 2013-2014*. Retrieved from: <https://www.gov.uk/government/publications/chief-coroners-annual-report-2013-to-2014>.
- Coles, D. & Shaw, H. (2012). *Learning from Death in Custody Inquests: A New Framework for Action and Accountability*. London, UK. Russell Press.
- Colvin, S. (2015). Why should criminology care about literary fiction? Literature, life narratives and telling untellable stories. *Punishment & Society*. 17 (2) 211-229.
- Daftary-Kapur, T., Dumas, R. & Penrod, S. (2010). Jury decision-making biases and methods to counter them. *Legal and Criminological Psychology*. 15 (1). 133-154.
- Dorries, C. (2004). *Coroners' Courts: A Guide to Law and Practice*, 2nd edn. Oxford, UK. Oxford University Press.
- Fairclough, N. (1992). *Discourse and Social Change*. Cambridge, UK. Polity.
- Fairclough, N. (2003). *Analysing discourse: textual analysis for social research*. Oxford, UK. Routledge.

- Foucault, M. (1994). Truth and Juridical Forms. In Faubion, J. D (ed) *Michel Foucault – Power: Essential Works of Foucault 1954-1984 vol 3*. London, UK. Penguin. 1-89.
- Fulton, R. (2008). *Review of the Forum for Preventing Deaths in Custody: Report of the Independent Reviewer*. London, UK. TSO.
- Goldson, B. (2006). Fatal Injustice: Rampant Punitiveness, Child Prisoner Deaths, and Institutional Denial – A Case for Comprehensive Independent Inquiry in England and Wales. *Social Justice*. 33 (4). 52-68.
- Gilbey, R. (2011). Bear Necessities. *New Statesman*. April 25th, 2011.
- Hattenstone, S (2009) Inquests fail to restrain the police. *The Guardian*. December 27th, 2009. Available at: <https://www.theguardian.com/commentisfree/libertycentral/2009/dec/27/mikey-powell-inquest-death-in-custody>. Accessed 23/1/18.
- Hermans, H.J.M. (2001). The Dialogical Self: Toward a Theory of Personal and Cultural Positioning. *Culture Psychology*. 7 (3). 243-281.
- Hill, C. & Cook, L. (2011). Narrative Verdicts and their impact on mortality statistics in England and Wales. *Health Statistics Quarterly*. 49 (1), pp. 1-20.
- HAC. (2010). *The work of the Independent Police Complaints Commission*. London, UK. TSO.
- Human Rights Watch. (2015). *The UK government's proposals regarding the Human Rights Act and the European Court of Human Rights*. Retrieved from: <https://www.hrw.org/news/2015/05/20/uk-governments-proposals-regarding-human-rights-act-and-european-court-human-rights>.
- Hyden, L-C. (1997). The institutional narrative as drama. In Gunnarson, B-L, Linell, P. & Nordberg, B. (eds). *The Construction of Professional Discourse*. Harlow, UK. Longman. 245-264.
- IPCC. (2016). *Deaths during or following police contact: Statistics for England and Wales 2015/16*. Retrieved from: https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/Deaths_Report_1516.pdf.
- Innes, M. (2003). *Investigating Murder: Detective Work and the Police Response to Criminal Homicide*. Oxford, UK. Oxford University Press.
- JCHR. (2004). *Third Report*. Retrieved from: <http://www.publications.parliament.uk/pa/jt200405/jtselect/jtrights/15/1510.htm#a46>. Accessed
- Labov, W. & Waletzky, J. (1961). Narrative Analysis: Oral Versions of Personal Experience. In Helm, J. (ed). *Essays on the Verbal and Visual Arts*. Seattle. American Ethnographic Society. 12-44.
- Langer, S., Scourfield, J & Fincham, B. (2008). Documenting the Quick and the Dead: A Study of Suicide Case Files in a Coroner's Office. *Sociological Review*. 56 (2). 293-308.
- Levine, M. (1999). *Levine on Coroners' Courts*. London, UK. Sweet and Maxwell.
- Luce, T. (2003). *Death Certification and Investigation in England, Wales and Northern Ireland: the Report of a Fundamental Review*. London, UK. TSO.
- Matthews, P. (2014). *Jervis on the Office and Duties of Coroners: with forms and precedents. 13th edn*. London, UK. Sweet and Maxwell.

- McIntosh, S. (2012). Fulfilling their purpose: inquests, article 2 and next of kin. *Public Law*. July. 407-415.
- McMullan, J. (2007). Lost Lives at Westray: Official Discourse, Public Truth and Controversial Death. *Canadian Journal of Law and Society*. 22 (1). 21-42.
- Ministry of Justice. (2015). *Coroners Statistics Annual 2015, England and Wales*. Retrieved from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525916/coroners-statistics-annual-2015-england-and-wales.pdf.
- Parliament. (2009). *Coroners and Justice Act*. Retrieved from: <http://www.legislation.gov.uk/ukpga/2009/25/section/1>.
- Pennington, N. & Hastie, R. (1986). Evidence Evaluation in Complex Decision Making. *Journal of Personality and Social Psychology*. 51 (2). 242-258.
- Pettijohn, K. A. & Radvansky, G.A. (2016). Narrative event boundaries, reading times, and expectation. *Memory Cognition*. 44. 1064-1075.
- Pilkington, P., Bird, E., Gray, S., Towner, E., Weld, S. & McKibben, M. (2014). Understanding the social context of fatal road traffic collisions among young people: a qualitative analysis of narrative text in coroners' records. *BMC Public Health*. 14. 78.
- Presser, L. (2009). The Narratives of Offenders. *Theoretical Criminology*. 13 (2) 177-200.
- Presser, L. (2012). Getting on top through mass murder: Narrative, metaphor, and violence. *Crime, Media, Culture*. 8 (1). 3-21.
- Presser, L. & Sandberg, S. (eds) (2015). *Narrative Criminology: Understanding Stories of Crime*. New York. New York University Press.
- Reiner, R. (2010). *The Politics of the Police*. 4th edn. Oxford, UK. Oxford University Press.
- Richardson, D. & May, H. (1999) Deserving Victims?: Sexual Status and the Social Construction of Violence. *Sociological Review*. 47 (2). 308-331.
- Ritchie, J. & Spencer, L. (1994). Qualitative data analysis for applied policy research. In Bryman, A., & Burgess, R. (eds). (1994) *Analysing Qualitative Data*. London, UK. Routledge. 188-209.
- Robinson, J. A. (1981). Personal Narratives Reconsidered. *Journal of American Folklore*. 94 (371). 58-85.
- Sandberg, S., Tutenges, S., & Copes, H. (2015). Stories of Violence: A Narrative Criminological Study of Ambiguity. *British Journal of Criminology*. 55. 1168-1186
- Sandberg, S. (2010). What can 'Lies' Tell Us about Life? Notes towards a Framework of Narrative Criminology. *Journal of Criminal Justice Education*. 21 (4). 447-465.
- Sandberg, S. (2013). Are self-narratives strategic or determined, unified or fragmented? Reading Breivik's Manifesto in light of narrative criminology. *Acta Sociologica*. 56. (1) 69-83.
- Savage, S. (2013). Thinking Independence: Calling the Police to Account through the Independent Investigation of Police Complaints. *British Journal of Criminology*. 53 (1). 94-112.
- Scruton, P. (2006). 'They'd all love me dead...' Implications of the Death of Annie Kelly. *Social Justice*. 33 (4). 118-135.

- Scott, V. (2012). Cut the Cow, Cut the Queen. *Theatre History Studies*. 32 (1). 16-32.
- Shuman, A., & Bohmer, C. (2004). Representing Trauma: Political Asylum Narrative. *Journal of American Folklore*. 117 (466). 394-414
- Sim, J. (2004). The victimised state and the mystification of social harm. In Hillyard, P., Pantazis, C., Tombs, S. & Gordon, D. (eds). *Beyond Criminology: Taking Harm Seriously*. London, UK. Pluto. 113-132.
- Shaw, H. & Coles, D. (2007). *Unlocking the Truth: Families' Experiences of the Investigation of Deaths in Custody*. London, UK. Inquest.
- Smith, G. (2009). Why Don't More People Complain Against the Police? *European Journal of Criminology*. 6 (3). 249-266.
- Taylor, C. (2016). *The Language Animal: The Full Shape of the Human Linguistic Capacity*. London, UK. Harvard University Press.
- Thomas, L., Straw, A. & Friedman, D. (2008). *Inquests: a practitioner's guide*, 2nd edn. London, UK. Legal Action Group.
- Todorov, T. & Weinstein, A. (1969). Structural Analysis of Narrative. *NOVEL: A Forum on Fiction*. 3 (1). 70-76.
- Van Dijk, T. A. (1975). Action, Action Description, and Narrative. *New Literary History*. 6. 273-294.
- Widdicombe, K. (2012). How...The Deceased Came By His Death. In McDougall, I. (ed). *Cases That Changed Our Lives*. London, UK. Lexis Nexis. 175-181.
- Wilson, T. D. (2015). *Redirect: Changing the stories we live by*. New York, NY. Little Brown.
- Woods, N. (2006). *Describing Discourse: a practical guide to discourse analysis*. London: Hodder Arnold.
- Youngs, D. & Canter, D.V. (2012). Narrative roles in criminal action: An integrative framework for differentiating offenders. *Legal and Criminological Psychology*. 17 (1). 233-249