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**Procedural justice at the custody desk:
Exploring interpreter need identification**

by

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Procedural justice at the custody desk: Exploring interpreter need identification

Section 1-Introduction

1.1 Abstract

The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice C (revised February 2017) sets the statutory provision of an interpreter for suspects detained in police custody in England and Wales. In practice, interpreter determination is reliant upon police officer discretion where they must become linguists (Cotterill, 2000). Determination is therefore liable to inconsistency, inaccuracy, and even prejudice, with clear potential for unjust process. Through a mixed method research design driven by grounded theory, utilising semi-structured interviews (n=9) and an e-questionnaire (n=42), this exploratory research conceptualised the interpreter need determination by Custody Sergeants within the custody booking-in procedure within a medium-to-large sized police force.

The Custody Sergeant's determination was theoretically positioned using the procedural justice model, where more accurate and fairer determinations would be theoretically associated to improved perceptions of empirical legitimacy amongst limited-English speaking detainees and their communities, rather than a solely normative approach through provision alone. Affecting the 'field' not just the 'habitus' (Chan, 1996), the application of procedural justice theory in this way evolves police-minority engagement from the traditional 'take me to your leader' approach (Bradford, 2014), through a cost-effective employment of theory (Myhill *et al*, 2011).

The interpreter determination was conceptualised by the core concept of 'comprehension doubtfulness', formed of 4 theorised independent variables or dimensions: 'competency discovery mechanisms'; 'competency threshold construction'; 'linguistic vulnerability'; and 'linguistic naivety', each consisting of operational attitude statements. Reliability analysis was used to concentrate each scale. Results showed substantial variance between participants across the attitude items, where attitudes or a lack thereof, are potentially harmful to the accuracy of 'comprehension doubtfulness'. The results suggest limited speaking foreign national detainees, particularly of middling English competency, face an interpreter provision lottery when arriving in custody, meaning they become even more vulnerable to their linguistic vulnerability.

This research makes an original contribution to the literature of interpreter determination within policing, providing a more detailed and operationally tangible framework than the proficiency-demand dichotomies of Valdes (1990) and Cooke (2002). It raises debate and possibilities in relation to future minority engagement through targeted employment of theory and challenging prevailing notions of vulnerability. Findings support the current research theme relating to the ineffectiveness of PACE to increase vulnerability detection amongst detainees (Young *et al*, 2013).

1.2 Acknowledgements

This dissertation was only possible because a handful of police sergeants were kind enough to make time in their busy days, often in their own time outside of work hours, to participate and be guinea pigs to my fledgling interviewing skills. Many others took the 15 minutes "and the rest" (as one participant told explained to me), to complete the e-questionnaire. Access to these personnel was only by the kind permission of the Chief Constable of the force, and a through a selection of higher ranking gate-keeper officers. The tour of the custody suite by the local custody (Insp) manager was much appreciated. I'm grateful to all the officers' contributions, whether direct or indirect, not only to the study, but in helping me develop my research skills and to contribute to the debate on interpreter determination. I hope very much collectively we can make a difference.

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1.3 Introduction

“It is important to ensure that when the law is applied, justice is not lost in translation” (Ackermann, 2010: 398).

As a result of significant international migration, population shifts and travel (Ammar *et al*, 2015; Ewens *et al*, 2016; Fryer *et al*, 2013; Gallai, 2016; Pavlenko, 2008; Piatowska, 2015; Soto Huerta *et al*, 2015), migration is a factor of modern life (ACRO, 2016; Anderson *et al*, 2014). Predictable colonial migration patterns now operate alongside other forces, such as labour demands, boarder reconfigurations, conflict and security (Soto Huerta *et al*, 2015). The influx of migrants into the Southern European states of Malta, Italy and Greece is a current example (Martin *et al*, 2016). As the ethnic and linguistic make-up of societies develops (Gallai, 2016), misdiagnosis, misinterpretation and miscommunication between non-native speaking people and the police is likely to occur more frequently as “the number of non-English speakers swell” (Delgado *et al*, 2016: 27). Despite becoming better at making contact with diverse and hard to reach groups and communities, police need to continue to develop their legitimacy within minority groups, particularly by identifying the needs of these new migrant communities and establishing relationships with them (Martin *et al*, 2016). Language is one such need. Communication between police and public, with minorities and second language speakers “a significant and difficult real-world language issue” (Gibbons, 2001: 240), where overcoming the language barrier is therefore a major component in the provision of an accessible and equitable policing service to non-native speaking ethnic minorities (Chan, 1995).

Unsurprisingly, police forces around the world are increasingly requiring interpreters to communicate with non-native speaking people (Wakefield *et al*, 2015). However, the question of whether a need exists for an interpreter has been a perennial issue within interpreting (Morris, 1999) and has not progressed alongside improvements to statutory interpreter provision (Valdes, 1990). Despite the growing volume of intercultural encounters, the need to communicate with people from other cultures has been ignored, as has the need to conduct research to improve successful intercultural communication (Hu *et al*, 2013). But “failure to recognise our linguistic diversity and multilingualism in the legal process threatens equality in any individual’s ability not only to speak but also to be heard in one’s own language” (Ralarala, 2014: 378).

Where discrimination and disparity in treatment of different groups that are low in power and status has been a perennial problem of policing (Reiner, 2010), migrants such as those from Eastern Europe add to this list of groups facing challenges in terms of policing and the criminal justice system (Rowe, 2016). Not only are their economic opportunities impeded by socio-political factors (Soto Huerta *et al*, 2015: 488), those unable to speak English or command only limited English are at further risk of being disadvantaged (Gibbons, 1996). Hence, interpreting provision needs to be taken more seriously by police (Chan, 1995). Yet the most recent work conducted by Shellee Wakefield and colleagues in 2015 found police officers from Queensland Australia

employing a variety of discretionary strategies to identify interpreter need, whilst at the same time influenced by pre-existing beliefs and perceptions of interpreter use (Wakefield *et al*, 2015). Numerous case studies exemplify miscomprehension of rights within police custody undermining case integrity at court (e.g. Berk-Seligson, 2004; Brière, 1978; Pavlenko, 2008; Valdes, 1990), the need for successful communication and correct interpreter determination within the booking-in phase of detention can be seen.

Criticism has been raised at police custodies for not identifying vulnerabilities at the screening stage (Young *et al*, 2013), where linguistic vulnerability is recognised by many jurisdictions, such as Australia (Eades, 2012), although not by the statutory definitions with England and Wales (e.g. HMIC, 2017; Section 16 Youth Justice and Criminal Evidence Act 1999). Whether this is a result of the power of the Lawrence inquiry upon the setting the way minority communities are policed (Reiner *et al*, 2008), or a cultural monolingualism (Rowe, 2016), recent comments by a Deputy Commissioner of the Metropolitan Police Service in relation to vulnerability and language (Daily Mail online, published 25/08/17 17:14, accessed 26/08/17) raises the issue's profile, and puts language onto the vulnerability agenda in England and Wales.

Recent work by Skinns *et al* (2017) focussed on the constituents of 'good police custody' related notions of good and legitimate policing to a procedurally just experience for detainees, where not only is it the point at which the interpreter determination is made (PACE Codes of Practice C, 3.5cii), it is the "ultimate teaching moment" (Skinns *et al*, 2017: 603) to affect a detainee's perceptions. This makes the interpreter determination one area which is not just a process which tries to demonstrate fairness, it has a real implication on the policing perception of that detainee and those around them (Chan, 1996).

This purpose of this study was to explore how Custody Sergeants determine the need for an interpreter within the booking-in process of a police suspect detention, and the tools they use to complete this statutory task. These questions sought to fill the persisting knowledge gap identified by Valdes (1990) within interpreter use in policing, specifically about who requires one and the criteria used to determine this. The first section has detailed the abstract, acknowledgements, and put this study into a contemporary policing context. The second section analyses the available literature in relation to interpreter need identification, and procedural justice, and proposes two research questions within a discussed research gap. Section three sets out the methodology used to answer the research questions. This includes the grounded theory approach and the triangulated research design, as well an explanation of the limitations associated with the methodology. Section four thematically presents the results, relating findings to the literature. Key themes of 'competency discovery mechanisms', 'competency threshold construction', 'linguistic vulnerability perceptions' and 'linguistic naivety' are shown to comprise a core concept of 'comprehension doubtfulness': the feeling of communicative doubt Custody Officers feel when dealing with non-native speakers. The appropriateness of procedural justice

is also explored. Section five states finding's implications for policing. Wide variance across the key themes infers detainees face an inconsistent provision, undermining fairness of process, but also meaning they become even more vulnerable to the consequences of their linguistic vulnerability. Findings suggest the normative legitimacy yielded by statutory interpreter provision is therefore false, however, opportunities to strengthen normative legitimacy and generate greater empirical legitimacy through greater training and awareness are explained. Areas for further research are also identified.

Section 2- Review of the research topic literature

In the determination of interpreter need, the 1970 *Negron* case (USA) is seminal (Morris, 1999: 8). The Spanish-speaking Puerto Rican defendant was considered “linguistically incompetent” to stand trial without an interpreter, where otherwise his right to confront his English-speaking witnesses couldn’t be expressed (Safford, 1977). Within the *Negron* case the court “suggested the parallel of the linguistically incompetent to the mentally incompetent” (Safford, 1977: 23). Such assessments of language as an inhibitory factor have continued to resonate within applied linguistic literature from both court and police interview settings, ranging from a “linguistic disadvantage” (Cotterill, 2000: 12; Fair Trials International, 2012; Lai et al, 2014: 309), to a “handicap in English” (Cooke, 2002: 31; Delgado *et al*, 2016: 12) and a (linguistic) “disability” (Safford, 1977: 24), to a (linguistic) vulnerability (Cooke, 2002: 14; O’Mahony *et al*, 2012: 302; Wakefield *et al*, 2015: 54). The London *Fair trials International and legal experts panel* of 2012 identified “foreign nationals, who are vulnerable by virtue of their nationality, linguistic disadvantage and other factors” as a potentially vulnerable group, but failed to agree to automatically include “non-nationals” within any definition of vulnerability, opting for the broader conceptual focus of “effective participation” (Fair Trials International, 2012: 1-3).

There is no international definition of vulnerability (Bull, 2010). Her Majesty’s Inspectorate of Constabularies (HMIC) state “vulnerable people include children, elderly people, disabled people, and those with learning difficulties or mental health problems (HMIC, 2017). This is consistent with Section 16 of the Youth Justice and Criminal Evidence Act 1999, both of which omit language entirely. And whilst the Police and Criminal Evidence Act (PACE) 1984 Codes of Practice C (revised 2017) is the principle legal framework for police custody suites, setting the statutory provision of interpreter services for detainees in police custody, these guidelines continue to follow a definition of vulnerability linked to juveniles and mental health. Similar to the 1995 revision of the police caution which was devised by lawyers and psychologists without consultation of language experts (Cotterill, 2000), PACE Codes of Practice C, despite recent revision, continues to exhibit a disregard for linguistic disadvantage. For example, paragraph 11.18c allows with superintendent authority, a suspect requiring an interpreter to be interviewed by an interviewer in their own language, risking what Berk-Seligson (2004) refers to as ‘footing’, or through “otherwise establishing effective communication which is sufficient to enable the necessary questions to be asked and answered in order to avert the consequences” in paragraph 11.1a (PACE 1984 Codes of Practice C, revised 2017). Various case studies by specialist linguists providing expert witness advice demonstrate this to be a harmful tactic, both in evidential accuracy and reliability, as well as to the fairness of process delivered to the detainee. Gibbon’s 1996 case study of a Tongan-Australian murder suspect, with low social English proficiency and a mental age of under 6, demonstrates how in such conditions a suspect will encounter complex syntax and low frequency lexical items, resulting in miscomprehension and a distorted process, and potential miscarriages of justice. Other examples include Brière’s 1978 “classic” (Pavlenko,

2008: 1) relating to a Thai burglar in Los Angeles, Ackermann's (2010) expose of the Agriprocessors Inc. raid in Iowa (USA) where defendants entered guilty pleas without competency in the language in which they were presented, and Pavlenko's (2008) case study of a Russian exchange student with high social English competency interviewed without an interpreter being offered. Yet Walsh *et al* (2010) report there have been no reported miscarriages of justice in England and Wales in the last fifteen years as a result of oppressive interviewing. The "seminal" Iqbal Bergum appeal of 1985 (not reported on until 1991) being perhaps the only noteworthy case of recent decades centring on the use of and interpreter (Morris, 1999),

By contrast, the Australian academic Lorana Bartels categorises vulnerability as "physical disability, mental/intellectual disability, indigenous status and NESB" (non-English speaking background), acknowledging that "suspects whose first language is not English may encounter difficulties when being interviewed by police" (Bartels, 2011: 2-3). Operating in an individual's second language increases cognitive load (Gibbons, 1996; Wan, 2005) which impedes memory retrieval (Broadbent, 1958; Kahneman, 1973 cited in Powell, 2007), the ability to deceive (Cheng *et al*, 2005), and even the effectiveness of routine police interview techniques like the reverse-order method (Ewens *et al*, 2016). In such conditions, one's ability to present an accurate image of oneself is hindered, if not disfigured into something completely different (Valdes, 1990). Bartels' position is likely further influenced by academics such as Diane Eades who has published extensively on the cultural and linguistic issues faced by many Indigenous people in a legal context (Bartels, 2010), and Michael Cooke who has written "persuasively about indigenous issues in the courts" (Biber, 2010), in addition to other linguistic scholars prominent in this area within Australia, such as John Gibbons, Martine Powell, Miranda Lai and Ikuko Nakane. In particular, Cooke's (2002) *Indigenous interpreting issues for courts* provides a quality overview of applied linguistic interpreting issues within the context of policing and the court room. Following the same reasoning, Pavlenko argues the importance of linguistic coercion not replacing physical coercion (Pavlenko, 2008), where language incompetence can undermine other procedural safeguards (Valdes, 199).

This literature review, contrary to the claims of Russell (2004) and Jones (2008) that limited research had been conducted into the area of police interview discourse, identified a number of studies. The contribution of linguistics to the field of interpreting and communication within the context of language and the law is increasing (Cooke, 2002), however, seemingly in an inconsistent fashion internationally, and at a harmfully slow rate. Police interviewing has been and remains heavily influenced by the field of psychology (Heydon, 2012). Powell *et al* (2003) identified in their study *The treatment of multicultural issues in contemporary forensic psychology textbooks*, that the issue of interpreters in a forensic context is barely mentioned within the core psychology text books. Despite advances in "best-practice police interviewing and in interpreting performance analysis, there has been little evidence of cross-pollination between these two fields" (Lai *et al*, 2014: 307). The omission of any reference to language or migration within

Robert Reiner's *Politics of the Police* despite reference to the "EC Treaty obligations to protect the free movement of goods" (Reiner, 2010: 234) is a further example within the mainstream policing literature, with a similar vacuum of acknowledgement found within Her Majesty's Inspectorate of Constabularies' (HMIC) annual report *The state of policing* (HMIC, 2017). HMIC does however make reference to the statutory provision of an interpreter and the provision of rights and entitlements to detainees within recent reports on unannounced visits to police custody suites, and even lists such issues in the areas for improvement for Hampshire (HMIC Hampshire, 2017). Where consensus does exist internationally is in the failure of police to identify vulnerabilities at the initial stage or screening process (Bartels, 2011; Fair Trials International, 2012; Therapeutic Health Solutions, 2015; Young, 2013) where assessment of people Shepherd categorises as CALD (culturally and linguistically diverse) is undermined by an "ethnocentrism" of previous research (Shepherd, 2016: 266). In a recent study by Skinns *et al* entitled *Preliminary findings on police custody delivery in the twenty-first century: Is it 'good' enough?*, "a one size fits all approach to detainees" and "a lack of awareness of diversity issues" was sometimes exhibited by custody staff (Skinns *et al*, 2017: 363). In a recent unannounced visit to Hampshire, HMIC reported a similar lack of training within custody staff (HMIC Hampshire, 2017). And it is this lack of training, at least in part, in relation to the identification of interpreter need which can lead to the poor provision of interpreters for detainees (Wakefield *et al*, 2015).

Wakefield *et al* point out that "little attention has been paid to the complexities of using interpreting services in police interviews from a police perspective" (Wakefield *et al*, 2015: 56), and encourage further research "that enables a better understanding of the issues facing police officers who work in the difficult operational environment" (Wakefield *et al*, 2015: 68). Here, Wakefield *et al* are echoing Robert Reiner's observation that many areas of routine practice are "crying out" for greater understanding to provide grounding for policy development (Reiner, 2008: 363). As exemplified by the work of Shepherd (2016), there remains a need for research to "examine police effectiveness in identifying vulnerabilities" (Bartels, 2011: 2), and the police systems which are failing "to support vulnerable people and the practitioners responsible for them" (Brunger *et al*, 2016: 1). As Delgado *et al* point out, had the officers involved in the infamous stop-check of Sureshbhai Patel known how to identify or even possessed an awareness of limited speaker attributes, his injury and the subsequent global reaction which saw President Obama calling for international calm, could have been avoided (Delgado *et al*, 2016).

2.1 Interpreter need identification

In her 1990 paper, Valdes recognises the progress of statutory provision of interpreter services (within the USA), but points to one major unresolved issue in actual practice: “the identification of individuals whose lack of English language ability requires that they have available to them the services of an interpreter” (Valdes, 1990: 5). After all, the provision of an interpreter is vital because poor communication can hinder investigative effectiveness and risk injustice (Gibbons, 2001; Wakefield *et al*, 2015). Although Cooke warns of viewing interpreters as a “panacea” to communication problems (Cooke, 2002: 29), as exemplified by Nakane’s paper *The myth of an ‘invisible mediator’: An Australian case study of English-Japanese police interpreting* (Nakane, 2009). Similarly, HMIC look to ensure the availability of interpreting services within custody suites, by phone or face (HMIC Hampshire, 2017), without consideration of evidence such as Wadensjö’s paper *Telephone interpreting and the synchronisation of talk in social interaction*, which sets out the challenges, difficulties and quality impact associated with conducting interpreter mediated police-citizen interactions over the phone (Wadensjö, 1999).

Specifically, Valdes posed three questions: “Who is a non-English speaker? What criteria can be used to determine English language proficiency? Who can make that determination validly?” (Valdes, 1990: 5). Valdes’ first two questions need greater examination, however the latter question of ‘who’ is pre-defined within legislation, where PACE Codes of Practice C (paragraph 3.5cii) states that “the custody officer (or other custody staff as directed by the custody officer)” will make the determination of interpreter need for a detainee arriving into police custody (PACE Codes of Practice C, 2017: 14; also see Young, 2013). However, as Cooke explains, it takes a suitably qualified linguist or teacher to use patterns or errors in learner’s English to determine the proficiency of an individual’s English, “how much they can understand and express, and whether or not they require an interpreter” (Cooke, 2002: 8). This echoes Cotterill’s belief that a police officer must “become a linguist” to determine detainee comprehension of the police caution (Cotterill, 2000: 20). The determination for interpreter need therefore poses a unique set of challenges for police, not least because of a difficulty or lack of training in recognising the level of English required, which can result in a reluctance to use interpreters even where legislation exists to ensure their use (Wakefield *et al*, 2015: 54). In particular, for Ewens *et al*, it’s “the middle competency categories for whom the choice to use an interpreter is most valid” as those at ‘beginners level’ would not be good enough to convey information in English, and therefore interpreter need would be obvious, while those at the ‘upper intermediate level’ (who can talk fluently and almost accurately) probably do not consider using an interpreter or get offered one by police (Ewens *et al*, 2016: 244).

In determining the need for interpreting assistance, Cooke (2002) describes two main interrelated factors: the person’s level of competence in the English language and the communicative context in which the person is required to participate. These repeat the “demand” and “proficiency” determinations identified by Valdes (Valdes, 1990: 8). For the second language

speaker, language complexity, complexity of knowledge expressed, predictability and structure of the task, familiarity with the topic or task, speed of delivery and time pressure, and the opportunities for control (Broady, 2005) all contribute to task difficulty, as will speaker accent and speech rate, with additional potential for cultural and conceptual miscommunication. Pavlenko's (2008) case study of a Russian student detained in the USA provides an example of such conceptual confusion in relation to legal rights. Cooke (2002) specifically lists implied meaning, negative questions, homonyms, and rapid subject change as further complicating factors of speech which can generate misunderstanding and confusion. In her study of trial discourses, Valdes (1990) also identified the greater skill demanded by cross-examination scenarios in comparison to direct examination. Thus, there are great many factors which could influence the difficulty of an interaction between a custody officer and a detainee during the booking-in process, even where a far less sophisticated "strategy of cooperation" can be employed by the detainee (Valdes, 1990: 19-20). The custody booking-in procedure still requires what Broady (2005) would label receptive and productive language skills (listening and speaking), where a detainee needs to listen to and understand rights, entitlements and risk assessment questions to engage their legal rights fully, and be able to provide the richest information to formulate an accurate risk assessment. Cotterill's (2000) study *Reading the rights: A cautionary tale of comprehension and comprehensibility*, demonstrates a difficulty amongst even native English-speaking detainees to understand the police legalese of the police caution, and a similar difficulty amongst the police officers to "translate" for them. To further emphasise the relevance to the booking-in procedure, Shepherd (2016) presents evidence in relation to the greater prevalence of mental health issues within refugees settling in Western countries, whilst at the same time encountering various linguistic and cultural barriers. As Pavlenko (2008) explains in her Russian student case study, the suspect didn't understand the meaning of the words 'detainee' and 'waiver', as she had never encountered them in her language-learning history. And because she thought she understood, at least in general terms, she did not question their meanings. Immigrants tend to learn functional language skills for employment and fulfilment of basic needs, with full competency a complex and elusive task to achieve (Soto Huerta *et al*, 2015). The process for a non-native speaker to achieve 'automatization' (integrating knowledge and skill within cognitive frameworks or 'schema') takes time, practice and mental effort to develop the necessary grammar and vocabulary (Broady, 2005). Thus, Gibbons advocates the use of an interpreter where people are unable to present and argue exactly and completely their version of events (Gibbons, 1996: 290).

The Fair Trials International panel, which acknowledged linguistic vulnerability, employed "the concept of effective participation" as part of its vulnerability definition which it sourced from the European Court of Human Rights (SC v UK, 2004, Application no. 60958/00) where the detainee with an interpreter if necessary, should have "a broad understanding of the nature of the trial and what is at stake". This includes the significance of any penalty, being "able to understand the general thrust of what is said in court", "follow what is said by the prosecution",

and be able to explain to his own lawyers (Fair Trials International, 2012: 3). This general 'thrust' seems comparable to the flexibility of understanding given to the police caution under PACE and its Codes of Practice, which allow variations of wording providing "its conceptual content or legal significance" is maintained (Cotterill, 2000: 8). By contrast, PACE Codes of Practice C is explicit in the purpose of the interpreter provision, which is to "safeguard the fairness of proceedings, in particular by ensuring that suspected or accused persons have knowledge of the cases against them and are able to exercise their right of defence" (PACE Codes of Practice C, 2017: 43). Codes of Practice C elaborates to state that:

"the suspect must be able to understand their position and be able to communicate effectively with police officers, interviewers, solicitors and appropriate adults as provided by this and any other Code in the same way as a suspect who can speak and understand English and who does not have a hearing or speech impediment and who would therefore not require an interpreter" (PACE Code C: 2017: 43).

By employing the words "in the same way", PACE Codes of Practice C is reasoning that the employment of an interpreter facilitates the suspect's participation and understanding to that of a native speaker. By this same reasoning, a non-native speaking individual not assessed as requiring an interpreter should therefore be able to speak and understand like a native. This is a much higher level of understanding and expression than the "general thrust" approach adopted by the Fair Trials International panel, but is more consistent with the Australian Anunga Rules which require the provision of an interpreter for Aboriginal suspects unless "he is as fluent as the average white man of English decent" (Bartels, 2011: 4). The Aboriginal Interpreter Service also suggest a similar ideal communication benchmark where the individual can fully understand and fully express themselves (Aboriginal Interpreter Service, 2013).

Robert Reiner describes PACE as "the single most significant landmark in the modern development of police powers" (Reiner, 2010: 212), however Young concludes that "PACE and its Codes of Practice do not appear to have been successful in addressing police practices for vulnerable detainees" (Young, 2013: 3). Unsurprisingly, PACE offers little support in relation to the identification of interpreter need, further reflecting the continuing disconnect between linguistic evidence and police practice. PACE Codes of Practice C (notes for guidance 13B) is far from the highly praised checklists (Fair Trials International, 2012) employed by custody suites for other vulnerability areas. PACE proposes two avenues for custody officers to utilise: a self-assessment by the detained person or a telephone assessment by an interpreter. The guidance states:

"A procedure for determining whether a person needs an interpreter might involve a telephone interpreter service or using cue cards or similar visual aid which enable the detainee to indicate their ability to speak English and their preferred language". This

could be confirmed through an interpreter who could also assess the extent to which the person can speak and understand English (PACE Codes of Practice C, notes for guidance 13B).

Self-assessment relies upon the detained person having an awareness of what constitutes a baseline level of understanding (Cotterill, 2000), and even then, comprehension of rights has been found to be no greater in offenders than lay-persons (Chaulk *et al*, 2014). Relying on self-assessment for comprehension through a single yes-no question (Cotterill, 2000) also creates the opportunity for acquiescence within the detained persons, especially when they don't understand the question fully (Cotterill, 2000; Cooke, 2002; Gibbons, 1996; Hughes *et al*, 2013; Nakane, 2007). Gratuitous concurrence takes place when persons feel inclined to give an affirmative answer to 'yes/no' questions irrespective of the question or their understanding of it (Cooke, 2002; Fryer *et al*, 2013; O'Mahony *et al*, 2012). However, as Fryer *et al* (2013) found in their study of limited English speaking stroke victims, non-native speaking people were often used to receiving services in English and had grown accustomed to 'getting by' in a linguistically restricted fashion. A different study of 2866 Danish immigrants in relation to self-perceived need for an interpreter (for a GP consultation) produced results consistent with earlier studies, where self-perceived need was affected by gender, age and lower socio-economic status (Harpelund *et al*, 2012). Thus, Cooke (2002) suggests that whilst an individual's own opinion should always be considered as a matter of course, but only after the individual has listened to pre-recorded advice in their own language about the interpreting assistance available. But where persistent ignorance of English is expressed by the individual, Morris is clear that they shouldn't be forced to give evidence in English (Morris, 1999).

The second suggested tool contained within PACE guidance is assessment by interpreter. Yet, an interpreter's core competency is the "instant comprehension of a contextualised meaning in one language and expression of the totality of the message in the other language" (Lai *et al*, 2014: 308), rather than language proficiency assessment. Despite "meagre case authority on court interpreting" (Morris, 1999: 3), the following decision by Asylum and Immigration Tribunal Judges Ockleton and White recognises language assessment as a unique skills-set, distinct from that of an interpreter's core repertoire:

"It is no part of the interpreter's function to report on the language or dialect used. The expertise needed to identify a language or dialect is not typically the expertise of an interpreter. In any event, an interpreter should not be in the position of giving, or being asked to give, evidence on a contested issue" ([2008] UKAIT 29; [2011] UKUT 0337/ (IAC)).

Custody officers are no more equipped to make the interpreter determination than interpreters, trial Judges (Morris, 1999; Valdes, 1990), or defence lawyers (Cooke, 2002). This re-emphasises

Cotterill's (2000) observation that custody officers must become linguists, and often in stressful or violent situations. The difficulty of this untrained assessment is compounded by features within second language acquisition that can combine to easily cause over-estimation of proficiency, such as cognisance using key words and tone, conversational scaffolding, and effective basic conversation ability (Cooke, 2002). Such examples may well appear in the functional everyday English spoken by immigrants but who lack full literacy (Soto Huerta *et al*, 2015), so competency shortcomings will only appear when topics become more unfamiliar and unpredictable (Cooke, 2002). Not forgetting that language can deteriorate with lack of practice (Goral, 2004; Valdes, 1990; Yu, 2015) as well as age (Goral, 2004). For these reasons, people who are untrained "significantly underestimate the amount of miscommunication that occurs when communicating with someone for whom English is a second language" (Aboriginal Interpreter Service, 2013: 1). And thus, explains why "the choice to use an interpreter is most valid" for middle competency categories (Ewens *et al*, 2016: 244), but equally "more complex" when the subject is a limited English speaker (Valdes, 1990: 5). This task difficulty must also be viewed within the context of the discretionary assessment strategies found to be in use by police officers (Wakefield *et al*, 2015), which will likely be contributing to inconsistency, and potentially erroneous assessment. And thus, supporting Young's (2013) assertion that despite reform, custody procedures may not have had the desired impact of improving safeguards for vulnerable suspects.

Vrij's work in relation to deception is relevant at this juncture. Vrij found "empirical support for the occurrence of non-verbal communication errors in cross-cultural police-citizen interactions", where typical black non-verbal behaviour displayed by black citizens was interpreted as suspicious and unpleasant by white officers" (Vrij, 1994: 290). Interestingly, Egharevba (2004) reported instances of power abuse by police officers on African migrants in Finland as a result of cultural misunderstandings and misinterpretation. In a different study by Vrij, he was reported that police officers could only detect deception, although not necessarily successfully, where clearly visible non-verbal communications were present (Vrij, 1995). Vrij therefore surmised that even in countries where no overt racial prejudice exists, racial discrimination can occur, not based on visible characteristics, but resulting from subtler cues, such as non-verbal behaviour (Vrij, 1994). Demonstrating this point further, a study of families of British Pakistani prisoners found many shortcomings experienced by participants originated from "unwitting prejudice, ignorance and thoughtlessness", with their needs overlooked because policies and procedures were geared to the needs of the majority ethnic group (Abass *et al*, 2016: 269). Several researchers warn against simplifying immigrant and minority groups as a monolithic identity (Yim, 2006), for example, of the half a billion Muslims living in 85 countries across the world, they speak more than 200 dialects (Ammar *et al*, 2014). Hence Shepherd (2016) questions the ethnic applicability of risk assessment tools currently in use.

Valdes (1990) identified two publications relating to interpreter determination from the 1970s. One by Young, Arthur and Company (1977), advocating open questioning for the self-

assessment of witnesses in court, and another by Rutgers Law Review (1970) which argued for a procedure similar to that used for assessing mental competency, possibly taking the format of a board of professionals. But for Valdes, neither paper addressed “the most important issue: the standard of minimum functional proficiency in English for effective and meaningful participation in legal matters” (Valdes, 1990: 8). Cooke suggests that a straightforward police interview about events and circumstances pertaining to criminal offences, coping with native speakers speaking at a normal rate, requires an Australian Second Language Proficiency (ASLPR) level of 3 (i.e. basic vocational level). However, this level doesn’t include the competency required to understand police jargon (with words such as offence, charge, bail, unlawful wounding, wilful-murder) without these words first being explained in ordinary language, level 4 (i.e. vocational level) proficiency may be more appropriate. In context, this is the same level of English expected of trainee court interpreters in Australia (Cooke, 2002). Unfortunately, the literature review found no research into the discourse difficulty of the custody booking-in process. Whilst Cooke (2002) stipulated a language demand level for police interviews and not the custody booking-in procedure, it is plausible the questions within the custody risk assessment administered as part of the booking-in process would be equally unfamiliar and challenging. Similar comprehension and interaction difficulties were found by Fryer *et al* in a study of limited English speaking stroke patients from different language groups (Fryer *et al*, 2013). Whilst Valdes (1990) was unable to provide a categorical assessment of the proficiency requirement relative to an established scale (as Cooke does), she makes reference to attributes comparable to Cooke’s, such as language system utilisation without error inference, awareness of hidden meanings and implications, and the ability to use language strategically.

Writing from a court perspective and considering proficiency assessments by judges, Valdes discredits both the use of “perfunctory inquiries which consist primarily of questions which can be answered by the accused in one-word utterances”, and “the use of extra-linguistic criteria, such as period of residence” or schooling (Valdes, 1990: 6-7). Instead, she suggests evaluating the ability of individuals to carry out a number of verbal actions, such as confirming information, interrupting and dealing with interruptions, and explaining reasons for actions (Valdes, 1990). Yet 25 years after Valdes’ paper *When does a witness need an interpreter?* (1990), Wakefield *et al* (2015) continued to deliberate the same questions of “who is a non-English speaker, (and) what criteria can be used to determine English language proficiency?” (Valdes, 1999: 5), calling for more empirical research to help establish whether prescribed methods can help officers reliably identify if an interpreter is required (Wakefield *et al*, 2015: 67). Whilst this may not be surprising considering Valdes’ prediction “that an easy-to-use procedure for making decisions about language incompetence is unlikely to be developed” (Valdes, 1990: 27), Cooke and Wylie’s *Is an interpreter necessary? A test of English to assess the need for an interpreter for people involved in legal proceedings from a non-English speaking background* (Aboriginal Interpreter Service, 2013: 2; Cooke, 2002: 32) appears to be the only noticeable research development in this area since Valdes’ work.

In addition to self-assessment and assessment by expert witness, Cooke (2002) lists assessment by lawyer, employing Cooke and Wylie's field test which seeks to mimic the challenges likely to be faced by detainees, but is quickly administered without specific training by lawyers or field officers, and provides clear results. However, in 2002, Cooke wrote that this test was not widely used or promoted, and on publication in 1999, was yet to be tested (Cooke *et al*, 1999). It was evidently not in use by the Queensland police officers sampled by Wakefield *et al* (2015). The test is constructed of 6 parts, of increasing difficulty, which replicate aspects of a client-solicitor interview: introduction; biodata; cross-examination; introduction to more complex conversation; explanation of interpreter's role and responsibilities; and cross-examination on rules for interpreters (Cooke *et al*, 1999). But as Klapper (2005) concedes in his chapter *Assessing language skills*, language proficiency tests are "notoriously difficult" not least because the assessment approach is dependent upon a number of factors (Klapper, 2005), in particular, an in-depth examination of that person's performance in the situation to be encountered (Valdes, 1990). This is exemplified by the varied methodologies employed in post-event assessments carried out by expert witness linguists (e.g. Brière 1978; Gibbons, 1996; Pavlenko, 2008), and is likely a contributory factor in the lack of development of a simple and practical tool for front-line practitioners to use when assessing limited English speaking detainees for interpreter need.

In the most recent study identified by the literature review on the subject, Wakefield *et al* (2015) asked an opened-ended question of Queensland police officers to describe their own methodology for interpreter determination during their most recent interview with a suspect. Whilst initial observation was by far the most common tool employed (42.6%), this study found interpreters were more likely to be utilised for more serious offences such as sexual offences, assault, and domestic abuse offences, with a number of officers adopting "their own investigation strategy such as the use of everyday questions followed by subsequently more complex or difficult questioning" (Wakefield *et al*, 2015: 67). Twenty years prior, Chan wrote that "there is a great deal of discretion exercised by individual police officers in judging whether a person has adequate English language skills" (Chan, 1995: 3). But as the results from the Queensland study (Wakefield *et al*, 2015) show and the PACE Codes of Practice C legitimise into practice, officer discretion is still very much central to interpreter need determination. Interestingly, the Aboriginal Interpreter Service pose the interpreter determination question in relation to the police officer, asking "if you were facing charges in a foreign, non-English speaking country and had to rely on your client/witness to interpret for you into English, would you be happy to proceed?" (Aboriginal Interpreter Service, 2013: 1). Being framed in this way, the question is subtly setting a uniform baseline competency standard against Cooke's suggested level 4 (Cooke, 2002), although still with a subjective police officer assessment.

A repeated recommendation by many researchers in this field is for increased awareness and training to “recognise language limitations in limited English speaking in what constitutes language ‘incompetence’ and “how language skills and abilities come into play”, because it “is the first step in working to change current perceptions and beliefs about language competence and incompetence” (Valdes, 1990: 27). Diane Eades advocates a similar approach (Eades, 2012), and is consistent with Young’s (2013) calls for custody staff to develop greater awareness about mental health and intellectual vulnerabilities presenting in detainees. Increased awareness could begin to introduce into policing the ‘cultural realism’ advocated by Kumaravadivelu (2008) in his book *Cultural globalisation and language education*, in which he emphasises the importance of language learners understanding not just words and mannerisms of a second language, but the native cultural identities, so full meaning in communication can be understood. Vogel (2011) too supports language and cultural training programs, however in a paper relating to police officer deception identification, Akehurst *et al* suggest that “the emphasis should be placed upon informing officers of their misbeliefs (i.e. to disregard some of their incorrect, preconceived behaviour), rather than instructing them to look for specific behaviours as indicators”, because training and experience did not appear to affect police officer beliefs about behavioural correlates of deception (Akehurst *et al*, 1996: 468). Coon (2016) found police officers were tired of hearing about diversity, preferring focussed tailored learning of new knowledge and skills rather than a broad content. Thus, the short three-page guidance document entitled *How to decide if you should work with an interpreter* produced by the Aboriginal Interpreter Service (Australian Northern Territory) could be a useful tool (Aboriginal Interpreter Service, 2013). Reflective of the work of Cooke, this summary provides an easily accessible overview of interpreter identification issues which could be used to improve discretionary police officer determination of interpreter need, in the absence of any other practical assessment tool. Thus, despite the absence of any tool to support Custody Sergeants in their difficult linguistic task to assess non-native speaking detainees for interpreter need, they need not rely on the poor guidance contained within PACE Codes of Practice C. Other jurisdictions acknowledge the importance of language vulnerability, from which Custody Sergeants in England and Wales can learn and better the accuracy of their determinations.

The implications for these determinations are not limited to the immediate practicality and fairness of the booking-in procedure and detention, but are more enduring, influencing perceptions of police legitimacy within the detainee as well as those with whom they interact within their communities. Thus, procedural justice provides the theoretical framework for this study, which is described within the next section.

2.2 Procedural justice at the custody desk

Chan asserts that the enactment of a statutory right to an interpreter is a policy change that can improve the relationship between police and minorities (Chan, 1996). In a paper entitled *Changing Police Culture*, Chan relates the statutory provision of interpreters to detainees to Bourdieu's social theory concept of 'field' and 'habitus', where the 'field' or space of social activity, shaped by historical relationships between groups and police, could be positively influenced by such a policy. In the example of New South Wales police, Chan found organisational changes aimed at improving relations between police and minority groups failed because "many of the changes were directed at the habitus but not the field" (Chan, 1996: 129-130). In other words, failure resulted from focussing almost entirely on changing policing objectives to affect policing practice, whilst ignoring improvement to the social relationships with minorities, which consequently stalled the process of internal organisational change (Chan, 1996). Here Chan poses two interesting questions: "what if the community' consists of 105 ethnic groups with different languages, cultural traditions and policing need?" Are police forces equipped to provide services to these groups? (Chan, 1995: 1). Relevant at this juncture is Bradford's observation that police seem to focus on a 'take me to your leader' approach, "ignoring that they are in daily contact with people the leader is meant to represent; people who draw direct, unmediated lessons from the way officers treat them and who may use these lessons...in judgements about the extent of their commitment to the wider community" (Bradford, 2014: 39). Therefore the 'field' change referred to by Chan nurtured through interpreter determination can also be theorised within Tyler's process-based model of procedural justice. Wakefield *et al* allude to this theoretical framework when they write "providing interpreters could also foster future reporting and cooperation from the community" (Wakefield *et al*, 2015: 66). Furthermore, in their recent paper *Preliminary findings on police custody delivery in the twenty-first century: Is it 'good' enough?* Layla Skinns *et al* (2017) employ the theoretical framework of procedural justice to the police-suspect interaction within police custody suites.

Procedural justice theory argues that the public's law-related behaviour is powerfully influenced by their subjective judgement of the fairness of the procedures through which the police and courts exercise their authority, where personal considerations of self-interest are suspended (Tyler, 2003). Whilst Skinns *et al* (2017) feel this is less likely for particular sub-groups, such as those locked into a regular relationship with police and who are repeatedly detained in police custody, Tyler (2003) cites work that demonstrates procedural justice at play within a prison environment. Furthermore, the perceptual effect of fair process is not limited to those directly in receipt of that process (i.e. the detainee), but also to family, friends and the wider community, as exemplified by Abass *et al*'s (2016) recent study. They interviewed British Pakistani families affected by imprisonment and found that a lack of information and confusion from the initial arrest onwards, exacerbated by a language barrier, allowed misconceptions about institutional practices to prevail. This is particularly relevant for those migrants originating from

countries where people have less favourable opinions of police, because migrants retain prior identities whilst developing new ones in their adopted country (Bradford, 2014; Egharevba, 2008; Egharevba *et al*, 2013). For example, Culver (2004) reported perceptions of fear and distrust towards American police amongst Hispanic immigrants resulting from treatment by police in their native countries with Egharevba *et al* (2013) reporting a similar finding in Finland. And as demonstrated by Hough *et al* (2013) in their comparison: perceptions of policing across different European countries, citizens of post-communist and southern European countries possess far less favourable perceptions of policing than northern European citizens.

Piatowska used a collection of international secondary data sources to investigate immigrants' confidence in police, concluding that "immigrants hold police in lower regard than native-born citizens, net of their socio-demographic, attitudinal and country level characteristics", moderated by political discrimination (Piatowska, 2015: 20). Therefore, whilst acknowledging that immigrant perceptions of policing may not be confined to treatment by the criminal justice system alone, support for procedural justice model was found (Piatowska, 2015). Further examples supporting procedural justice theory application to immigrants and migrants includes to Ghanaian immigrants in Minnesota, USA (Pryce, 2016), Bangladeshi immigrants in New York, USA (Khondaker *et al*, 2015) and African immigrants in Finland (Egharevba, 2013). With research finding "strong, consistent links between fair procedure, legitimacy and people's willingness to cooperate with police" (Tyler, 2003: 38), the procedural justice model offers a strategy to create and sustain a relationship of trust and confidence with minority community members, where cooperation is sought not simply to encourage deference to authority, but to "engage the members of vulnerable minority groups to engage in society behaviourally and psychologically" (Tyler, 2003: 38). And this is important because police rely on some form of public cooperation in almost everything they do (Bradford, 2014), with this cooperation synonymous with the 'policing by consent' approach in England and Wales. Moreover, it's a cost-effective way to reduce crime encouraged by the UK's College of Policing (Myhill *et al*, 2011).

Procedural justice is a key antecedent of long-term compliance because "it builds up support for people's 'buy in' to agreements and relationships" (Tyler, 2003: 9). As Mazerolle *et al* emphasise, "a little bit of being nice goes a long way" (Mazzerole *et al*, 2012: 55). Yet a key criticism of the linguistic interviewing literature could be that it lacks the theoretical application of this simple concept. Roberts (2011) is an exception. In his paper *Police Interviews with terrorist suspects: risks, ethnical interviewing and procedural justice*, he argues the importance of legitimacy and fairness within both the arrest and interview phase of an anti-terror operation, to benefit not only the investigation, but to also nurture the wider perception of police within the minority community, future information and intelligence sharing, and the avoidance of creating capital to those who would seek to damage the reputation of police (also see Tyler, 2003). Interestingly, Bradford found non-UK born respondents show a much stronger association between procedural fairness and social identity (belonging), generating co-operation in a

different model to UK born respondents. Because "police behaviour appeared to be strongly identity relevant", Bradford implies non-UK born respondents could therefore be more sensitive to the way police officers treated them (Bradford, 2014: 35). In a study of immigrant youths focussing on 'stop and frisk' in New York, USA, Rengifo *et al*/reported "immigration characteristics matter in the configuration of attitudes towards the police, perhaps more for ratings of effectiveness compared to legitimacy", where second-generation youths were more likely to report negative perceptions of legitimacy, but first-generation youths were more likely to report positive perceptions of effectiveness (Rengifo *et al*, 2015: 423). However, the authors acknowledge that exposure to involuntary less fairly perceived police interactions may matter more, with procedurally fair interactions likely able to reverse negative perceptions and breed cooperation (Rengifo *et al*, 2015). Therefore, according to Bradford, "perceptions of police fairness can be important on people's behaviours, even in highly diverse social environments such as twenty-first century London" (Bradford, 2014: 33-37).

Procedural justice is only one of several theoretical frameworks that can be used to explore immigrant's confidence in police (Piatowska, 2015: 6), with similarity-attraction theory, token theory, ultimate-attraction-error theory (Egharevba, 2013) and group-position theory (Bjornstrom, 2015: 2020; Piatowska, 2015) other potential alternative frameworks. However, Piatowska states that given the available evidence, it is "reasonable to consider the procedural justice model when trying to account for immigrants' confidence in police" (Piatowska, 2015: 7). Layla Skinns *et al* (2017) relate the notion of 'good' policing as legitimate to understandings of 'good' police custody and a procedurally just experience for the detainee. The key elements for a procedurally-just decision interaction such as neutrality, consistency, being rule-based, and without bias (Tyler, 2003: 11), are juxtaposed to the discretion employed within interpreter need determination, and thus relate to Chan's explanation that "some problems of police race relations can be directly related to an inappropriate bias towards efficiency at the expense of legitimacy" (Chan, 1995: 6). Unfortunately, "in today's policing organisations...managerialist strategies generally mean there is a strong emphasis on maximising performance and minimising cost" (Wood et al, 2008: 82).

In their recent paper *Police legitimacy in context: An exploration of 'soft' power in police custody in England'* (2017) Layla Skinns and colleagues found parallels between 'soft' power and procedural justice, specifically in custody officers' focus on the quality of detainee's treatment, recognition of detainee humanity and provision of information. There were also some differences with the procedural justice model, specifically humour, empathy and provision of information as a way to alleviate uncertainty. Nevertheless, with the custody suite the ultimate 'teaching moment'" (Skinns *et al*, 2017: 603) where the deployment of 'soft' power by custody officers is highly advantageous to gain co-operation, the authors assert that "it is imperative that these interactions are improved" (Skinns *et al*, 2017: 610). The need and determination for an interpreter are therefore crucial within the practical delivery of this 'soft' power, and improving

the interactions between detainees and police, which would be susceptible to the cross-cultural police-citizen miscommunication referred to by Vrij (1995). For this reason, Chan stresses "police forces need to take the provision of professional interpreting services seriously" (Chan, 1995: 3). Yet Valdes' (1990) research questions in relation to interpreter need determination still remain unanswered, much to the detriment of Custody Sergeants and the detainees for whom they are trying to care. These will now be outlined in the following section.

2.3 Research questions

For Reiner, basic aspects of policing such as “the way day-to-day decisions about use of powers are made” are based on out-of-date research conducted in the early 1980s (Reiner *et al*, 2008: 363). In fact, the literature review has demonstrated that very little research has ever been conducted into the area of interpreter determination for detainees, with little penetration into policy outside of Australia, with an enduring reliance on police officer discretion. This finding is consistent with that of Wakefield *et al*, who concluded that little attention had been paid to the complexities of interpreter use in police interviews from a police perspective” (Wakefield *et al*, 2015: 56). Valdes’ core questions essentially remain unanswered: “Who is a non-English speaker? What criteria can be used to determine English language proficiency?” (Valdes, 1990). The following research questions are set to begin to answer Valdes’ questions from the current perspective of current police custody officers operating within the realms of discretion:

How do custody officers determine whether a detainee requires an interpreter (or not)?

What techniques or considerations are employed in the process of identifying a requirement (or not)?

Twenty-seven years on from Valdes’ (1990) paper, these questions still remain valid. For example, a recommendation in Fonte *et al*’s (2016) paper *Language competence in forensic interviews for suspect child abuse* suggests the production of a decision tree for interpreter need determination. Brunger writes that diversity research should continue to strive to “identity and reveal failings in the system that need to be addressed to support vulnerable people and the practitioners responsible for them” (Brunger *et al*, 2016: 1). A discretionary interpreter determination is one such system failure, and falls into the individual level ambiguous disadvantageous practice which Egharevba (2013) is keen to generate greater consideration for. With interpreting a core need amongst immigrant and emerging communities theoretically associated to increased police legitimacy through just process, these research questions follow Bartels’ request that “future research should therefore examine police effectiveness in identifying vulnerabilities as well as ensuring appropriate training and procedures are in place to respond to witnesses’ special needs” (Bartels, 2011: 2). These research questions take the baton from Wakefield *et al* (2015), to benefit training, policy and guideline development in a difficult area of operational policing which is “crying out” for research to understand routine practices that can provide grounding for policy (Reiner *et al*, 2008: 363). Furthermore, this research challenges the belief that England is at the forefront of improving the police interview process and the protection of vulnerable interviewees (Bartels 2011), because when considering the possible range of vulnerabilities in existence, most if not all detainees could be categorised as such (Fair Trials International, 2012). The research design employed to answer the research questions will now be described.

Section 3 – Research design

3.1 Research design

Babbie states that “science is an enterprise dedicated to finding... (and) there will likely be a great many ways of doing it” (Babbie, 2004: 87). However, it is important that the research design, the strategy containing the tactical details relating to the collection and handling of data to answer a theoretically informed research question (Crow *et al*, 2008), is driven by the research question(s) (Babbie, 2004; Reiner *et al*, 2008; Westmarland, 2011; Wood *et al*, 2016), and contains a theoretical thread throughout (Bottoms, 2008; Noakes *et al*, 2004; Westmarland, 2011; Wood *et al*, 2016). No method or approach is superior, rather it is a matter of appropriateness (Oppenheim, 1992) where the method(s) chosen should “deliver the goods” and provide the opportunity for plausible conclusions to be reached (Westmarland, 2011: 82). Research design often involves “finding the best option given the circumstances and resources, while acknowledging the limitations” (Crow *et al*, 2008: 43), and ensuring feasibility (Francis, 2000).

By asking deeper questions of understanding of a specific social process, the identified research questions lend themselves to a qualitative approach (Crow *et al*, 2008; Westmarland, 2011). With no intervention to be evaluated (Wood *et al*, 2016) or variable to be manipulated, a non-experimental study is more appropriate (Crow *et al*, 2008), exploratory in nature by virtue of its unfamiliarity to the researcher and the manner in which it seeks to “break new ground” in an area which is a relatively new subject of study (Babbie, 2004: 87-89). While Babbie (2004) claims such studies rarely provide satisfactory answers to research questions because they lack statistical representativeness and can therefore only hint at answers and scope for future research methods, Reiner *et al* (2008) point out research design can be a balance between obtaining richness of data and representativeness. Thus, small scale studies are still valuable in social scientific research (Babbie, 2004).

The grounded theory method is an approach best used for small-scale environments and micro activity where little previous research has occurred (Grbich, 2013), and where the research purpose is exploratory in nature (Babbie, 2004). These features offer compatibility with the research proposal. Corbin *et al* (2008) state the theoretical sampling method employed within the grounded theory method is especially important for exploratory studies, involving a circular cumulative process of data collection and analysis, to discover and understand concepts, and ultimately generate theory (Corbin *et al*, 2008; Pogrebin, 2010; Westmarland, 2011). Rather than representativeness, theoretical sampling within grounded theory seeks conceptual saturation (Corbin *et al*, 2008). Babbie describes grounded theory as both scientific and creative when he explains it as “an approach that combines a naturalist approach with a positivist concern for a systematic set of procedures in doing qualitative research” (Babbie, 2004: 291).

Green (2014) and Thatcher (2008) both advocate the use of qualitative techniques such as interviews and observations to generate knowledge within case study designs. Green (2014) boldly links the narrow lens of evidence based policing research to a lack of knowledge about policing, and harks back to the "foundational era" of policing where a broad lens and range of methods to study police were employed within research design, removing the police's occupational veil. Interviews are able to generate a lot of useful data (Westmarland, 2011), with semi-structured interviews proving one of the most useful tools for understanding police elites (Brunger *et al*, 2016). Davies used semi-structured interviews with female prison inmates because of the exploratory nature of her research question and to keep the research grounded (Francis, 2000). Culver (2004), Nilson *et al* (2006), and Uho (2015) used interviews within their studies of police officers, with many others within the literature review also utilising interviews as a research technique (Abass *et al*, 2016; Ammar *et al*, 2014; Egharevba, 2014; Egharevba *et al*, 2013; Fontes *et al*, 2016; Fryer *et al*, 2013; Graca, 2015; Read *et al*, 2011; Yu, 2015). Semi-structured interviews, with an unstructured and open-ended approach allow for interviewer flexibility, probing and follow-up, whilst giving the interviewee the opportunity to talk, ascribe meaning and potentially understand the needs of the research project, all of which support the discovery of meaning (Noakes *et al*, 2004).

Brunger explains that with attitudes to race, ethnicity, gender, sexuality, corruption and malpractice, access "issues move beyond formal institutional access...to incorporate the challenge of enabling, encouraging and persuading individual research respondents to divulge their subjective attitudes towards topics that are highly sensitive" (Brunger *et al*, 2016: 175). The nature of secrets and anxiety of participant representation make it a particular issue (Reiner *et al*, 2008), creating a challenge for researcher's to obtain the "representation of self" rather than what policy says or respondents think they should say (Rowe, 2016: 178). For this reason, group interviews and focus groups were discounted. Westmarland (2016) advises against using (overt) participant observation for reasons of labour and time expense, organisation, and personal safety. And with no decision-making records existing, documentary analysis was also discounted. Questionnaires were discounted because of their inflexibility and inability to probe (Noakes *et al*, 2014). Although Wakefield *et al* (2015) used a postal survey technique, this research looked only at identified instances where officers had employed an interpreter, and therefore omitted any consideration for type II errors. Such instances where an interpreter need was present but not diagnosed or provided for, would logically be the most costly in terms of evidence and procedural fairness, as described within the literature review.

Green (2014) encourages a mixed method approach within policing research. Triangulation of method can mitigate or compensate for possible biases (Babbie, 2004; Rowe, 2016), and increase validity (Noakes *et al*, 2004; Westmarland, 2011). A number of studies from the literature review utilised a mixed method approach (Cotterill, 2000; Culver, 2004; Egharevba, 2014; Egharevba *et al*, 2013; Herbst *et al*, 2001; Regnifo *et al*, 2015; Therapeutic solutions,

2015). After using both observation and semi-structured interviews Tong reflected that the approach:

“...allowed for data triangulation and cross-referencing of information, counteracting weaknesses associated with any particular technique. The analysis was therefore based on a more in-depth and complete data set than a single method approach would have yielded” (Hallenberg *et al*, 2016: 112).

Green (2014) argues that policing knowledge needs conceptual and theoretical grounding to make explanations useful, and as such encourages a mixed method approach to policing research and generating knowledge, particularly from the micro-level, to break from the positivist “evidence based” suffocation caused by a focus on means, ends and interventions.

Oppenheim describes a triangulated design in the context of a Likert attitude scale development, to where questionnaire instruments are utilised within the “scaling procedure”, supported by specific statistical analyses to narrow and focus the item list (Oppenheim, 1992: 174). Whilst a process of validation, for which questionnaires can be “used to test the generality of findings in the wider population through triangulation of research methods” (Noakes *et al*, 2004: 14), the employment of triangulation within the research design can also be seen to be part of the longer progressive process linked to conceptual development and the construction of a representative index. As such, the researcher can “determine whether or not a set of items constitute a scale” (Babbie, 2004: 153). This is important, as Noaks *et al* (2004) warn against blindly adding research techniques with disregard for compatibility or ability to further understanding.

Whilst questionnaires are comparatively inexpensive (Berdie *et al*, 1986), the construction of measurements capturing concepts of complexity and varied meaning is challenging, particularly where there is a lack of guiding literature (Babbie, 2004), and the constructs generated through semi-structured interviews are abstractions and man-made (Oppenheim, 1992). Oppenheim warns that the “survey literature abounds with portentous conclusions based on faulty inferences from insufficient evidence misguidedly collected and wrongly assembled”, making the survey instrument design an important methodological element (Oppenheim, 1992: 7). Babbie’s (2004) *The practice of social research*, Berdie *et al*s (1986) *Questionnaires: Design and use* and Oppenheim’s (1992) *Questionnaire design, interviewing and attitude measurement* collectively provide deep explanations of the various challenges associated with utilising questionnaires in research, in particular, issues of reliability, validity, practicality and measurement. But essentially triangulation, of qualitative in conjunction with quantitative, is in keeping with grounded theory due to a “somewhat positivist view of data” (Babbie, 2004: 292). And in following Oppenheim’s advice to avoid “a stilted, rational approach in writing attitude statements”, but to rather select emotive and contentious statements from the in-depth

interviews, which use familiar language (Oppenheim, 1992: 180), the index itself is constructed by participants' voices, and therefore remains grounded. Thus, the "preliminary research investment...remains the crucial requirement of a good attitude scale" (Oppenheim, 1992: 207).

3.2 Theoretical approach

The underlying theoretical perspective of this research design is grounded theory, where observations of real-life, in the form of interviews, were used to develop a theoretical conceptual framework to represent the interpreter determination by Custody Sergeants. Grbich (2013) explains that it is an inductive approach which aims to construct substantive and formal theory from observations of reality. It employs the constant comparative method of analysis (Babbie, 2004). Data is narrowed and funnelled down, and theory developed as part of the creative research process, ideographically (Westmarland, 2011), in accordance with grounded theory's feminist origins (Grbich, 2013), and the realist consideration for multiplicity of realities and the absence of a single truth (Noaks et al, 2004). Grounded theory is therefore consistent with the socially constructed and subjective notion of policing (Brunger *et al*, 2016), and specifically, the discretionary decision-making involved in interpreter need determination (Wakefield *et al*, 2015).

Grounded theory is essentially categorical in its intent, but seeks to move away from a qualitative descriptive account to being an abstract conceptual framework (Birks *et al*, 2011), through a continuing interplay between data collection and theory, so data collection and analysis are more intimately intertwined (Babbie, 2004). The three main versions listed by Grbich (2013): Straussian, Glaserian and Charmaz's constructivist approach, differ primarily by the method they employ for theoretical abstraction (Birks *et al*, 2011). The Straussian approach uses a fragmented three-stage coding process, contrasted by the more field-based Glaserian approach with less emphasis on framing codes and a focus on emerging concepts, and Charmaz's constructivist approach which contains a closer researcher-participant link and challenges researcher objectivity. (Grbich, 2013). This study opted to follow the Straussian approach due to its step-by-step coding process and its acceptance of recorded material within the conceptualisation process. As Grbich explains, it is a flexible approach that "allows you to be creative and to add on aspects of other approaches in order to access the information you require to answer your research question" (Grbich, 2013: 79).

The perspective is about "discovering relevant concepts, and their properties and dimensions" with analysis driving further data collection (Corbin, 2008: 144). The "methodology allows you to look in depth at interaction in particular contexts to see how people define and experience situations" (Grbich, 2013: 89), to "find out about a bounded area of some aspect of social life or hear about the experiences of a certain group of people" (Westmarland, 2011: 29), or to "look in more depth at the mechanisms underlying a particular social process" (Crow *et al*, 2008: 37). As Grbich explains, it "is a useful approach when the microcosm of interaction in poorly researched areas is the focus of the research question" (Grbich, 2013:79), therefore the police custody suite and the practices of its small number of elite staff, within a qualitatively different police setting (Skinns *et al*, 2017) away from the public eye, represent an optimum subject for application of a grounded theory study.

3.3 The study population

The population of the study relates to Valdes' question "who can make that determination (of interpreter need) validly?" (Valdes, 1990: 5). Whilst the literature review hinted that police officers may not be the most suitable to make the interpreter determination, nonetheless PACE Codes of Practice C unambiguously places the responsibility with "the custody officer or other custody staff as directed by the custody officer" (PACE Codes of Practice C paragraph 3.5cii, 2017: 14). Massey raised concern that it could be construed to be "ethically unfair to focus on police officer's views rather than decision-makers", i.e. senior police officers and policy makers (Massey, 2016: 63), however it is these police officers and staff whom are employing their discretion to interpreter determinations every day. This situational knowledge can only be unlocked by sampling operational staff in the field, rather than management levels (Thatcher, 2008), in a bottom-up approach where rank-and-file are given a greater voice as change agents (Wood *et al*, 2008).

Babbie differentiates between a population and a study population, defining the latter as "the aggregation of elements from which the sample is actually drawn" (Babbie, 2004: 190). As a large organisation, data was available on training completion, hours worked and detentions authorised to create sampling frames (Babbie, 2004). But these may fail to register those sick, on holiday or retired for example. Equally, data may not take into account the nuances of the custody role, such as a three-role cyclical rotation (alongside response and neighbourhood departments), or trained sergeants 'guesting' for ad-hoc shifts, or even trained inspectors 'guesting' to help out during a busy shift. Furthermore, as a result of promotions and the cyclical pattern of deployments, newly promoted and newly trained sergeants will be soon sitting behind the custody desk. Consistent with Babbie (2004) who warns of making inadvertent omissions, the study population is actually much larger and more complex in reality.

The Metro (a pseudonym) custody suite was selected for the focus of the exploratory semi-structured interviews. It is the busiest (by annual detainee volume) within the force, serves a large linguistically diverse population, and is an operational base for Response and Neighbourhood functions. It therefore offered the largest concentration of potential participants. Furthermore, being a PFI facility but managed and staffed by police personnel, it loosely fits within the 'good' model of police custody (Skinns *et al*, 2017). From the researcher's perspective, it also offered practical benefits such as geographic proximity for the researcher, availability of discrete meeting rooms at nil cost, and vending facilities, as well as proximity to a local supermarket hosting a café. Babbie (2004) states limiting study populations for reasons of practicality is frequent practice. Consistent with Vrij's (1995) study on police officers, no inducements were offered, which would be against the ethos of the police Code of Ethics. However, interview participants were provided a coffee or soft drink during the interaction. The original study population comprised all sergeants who had authorised detentions in the last two

years and current Designated Detention Officers at Metro custody suite. However, due to a lack of response, this was extended to include all custody trained Sergeants and Inspectors and any prospective Sergeants due to complete custody training and enter post within the next year. Despite this extension, only 9 volunteers were forthcoming, with no Designated Detention Officers participating. However, Coon's study of police officer attitudes toward diversity from Rhode Island, USA, suggested Sergeants to hold less prejudicial views than subordinates because of their greater training (Coon, 2016), therefore their non-inclusion may have removed a potential source of sampling bias.

An important ethical component of research design is voluntary participation (Massey, 2016). This generated a non-probability convenience sample, and thus the representative advantages of a probability sample were lost and sampling bias introduced (Babbie, 2004). Voluntary participation was a central stipulation of access, and very much in keeping with the force's culture. In addition, the researcher wanted to draw out the participant's personal truth rather than a representation (Rowe, 2016), which can be difficult for sensitive diversity issues (Massey, 2016). A probability sample was neither appropriate nor possible, as can sometimes be the case (Crow *et al*, 2008). Moreover, within grounded theory, concepts are the units for sampling, rather than people (Birks *et al*, 2011; Corbin *et al*, 2008). It is the circular analysis process to the point of conceptual saturation which dictates the final sample size, accepting that whilst saturation cannot be obtained with 6 interviews, it is rarely actually achieved due to time, funding, energy or data saturation, and may leave gaps (Corbin *et al*, 2008). As an example, in an exploratory study of Ghanaian immigrants' views of police, Pryce (2016) used a non-probability sampling method to achieve a sample size of 13. The possibilities for inadvertent sampling bias are endless and therefore likely to be present within the research, even if not obvious (Babbie, 2004), particularly where volunteers may likely hold sympathetic views (Massey, 2016). However, Caless demonstrated that voluntary participation can still provide a wealth of rich data with few anomalous comments (Brunger *et al*, 2016), and after all, there will always be a risk of fabrication or exaggeration, but it is the researcher's role to reflect upon any that are provided and account for them (Davies, 2000). A number of other studies collected by the literature review also used convenience sampling (Ammar *et al*, 2014; Chaulk *et al*, 2014; Egharevba, 2004; Khondaker *et al*, 2015; Pryce, 2016; Wakefield *et al*, 2015).

Access to "get behind the cloaks of confidentiality" can be one of the problems associated with researching police elites (Brunger *et al*, 2016: 141), as Rowe honestly explains, "suspicion, incomprehension, and a lack of trust are understandable responses" (Reiner *et al*, 2008: 356). Positioning in relation to potential respondents is important, as Reiner *et al* (2008) acknowledge inside-outsider positioning can facilitate formal access, but make genuine cooperation and trust hard to come by due to the perceived link with organisational authority. For this reason, considerable time may need to be invested to gain trust from participants and organisations to collect effective data (Hallenberg *et al*, 2016).

The access journey mirrored Rowe's three levels: macro, meso, and micro (Rowe, 2016), acknowledging and respecting the differing power relations between each one (Westmarland, 2011). Consistent with Reiner's (2008) assertion, formal access was unproblematically achieved through the Chief Constable's staff officer (see Appendix 5), although O'Neil warns that achieving a "foot in the door" does not guarantee a researcher of meaningful access (Hallenberg *et al*, 2016: 107), meaning the gate-keeper meetings are equally important and significant in the access journey (Westmarland, 2011), not least because methodological concessions and restrictions can be requested (Reiner et al, 2008: 357). Moreover, senior manager support is also important to successfully implementing post research recommendations (Chan, 1995; Wood *et al*, 2008). At the meso-level, permission was negotiated both strategically and locally, with researcher positioning as well as previous professional experience proving beneficial. No methodological concessions were required, only for findings to be fed into the organisation and the organisation reserving the right to anonymise its name. Unlike Westmarland's (2011) experiences, the research was not particularly challenged or hindered, nor found to be a time-consuming process as Davies (2000) encountered. Outside of Rowe's three access levels, clearance by the University's research ethics process was also required. However, as a result of the methodological considerations and mitigations made by the researcher, clearance was forthcoming and unchallenged (see Appendix 6). Rowe's final level of access is the micro level: the participants themselves (Rowe, 2016), which is where the research design is executed.

3.4 Research instruments

A semi-structured interview technique was employed utilising a convenience theoretical sampling method, consistent with the grounded theory approach. Whilst a risky method, non-probability samples are actually quite common (Babbie, 2004), particularly where voluntary participation forms part of standard research ethics (Massey, 2016). In such circumstances non-representativeness is inevitable (Babbie, 2004; Massey, 2016), although no less scientific, just more open to claims of bias (Westmarland, 2011). Corbin *et al* (2008) explain that where randomisation and statistical measures help to minimise or control for variation in quantitative studies, qualitative investigation seeks variation in order to explore concepts and generate theory. Therefore, the purpose of the interviews was not to generate generalisable findings, but discovery of concepts, and their properties and dimensions. As Babbie (2004) explains, sampling methods shouldn't be avoided because they don't offer representativeness and generalisability, only that limitations are acknowledged. Even case studies on one subject can still provide powerful insights (Westmarland, 2011), as studies such as Brière (1978) and Pavelenko (2008) within the literature demonstrate.

Interviews were conducted in a similar fashion to those delivered by Nilson *et al* (2006) in their study examining police officer perceptions of police effectiveness in Canada, Venezuela and the USA. Whilst an interview schedule was designed based on the literature review (Noaks *et al*, 2004, Westmarland, 2011), within grounded theory research they are not as relevant due to the evolutionary nature of the research, however remain important for the ethics process and do provide a starting point for researchers (Corbin, 2008). Qualitative interviews, unlike surveys, only require a general plan of inquiry (Babbie, 2004). The schedule was designed to generate a 30-40 minute interaction. Interviews were then arranged (Westmarland, 2011) using individual informal invitation emails to the sampling frame, briefly outlining purpose of the research, and emphasising the organisational independence of the research and the researcher's flexibility. Davies provides more details on organising interviews (Davies, 2000), with Noaks *et al* (2004) and Corbin *et al* (2008) providing guidance in relation to the "tricky business" of interviewing (Babbie, 2004: 300).

Interviews were overtly recorded (audio) with the permission of the participant (Noaks *et al*, 2004) although within grounded theory, field notes (or memoing) is preferred to recordings (Grbich, 2013). Nevertheless, recording is common (Noaks *et al*, 2004), reliable and convenient (Reiner, 2008), and avoids any distraction, impediment or loss of data caused by detailed note-taking (Noaks *et al*, 2004). Furthermore, in the process of attitude scaling required as part of the questionnaire design, listening to the audio recording is essential (Oppenheim, 1992). Consistent with grounded theory 'memoing', Davies advocates note-taking as an aide-memoir (Davies, 2000). Both interviewing and note-taking support the clarity added by diligent transcriptions (Brunger *et al*, 2016), which is a further methodological step which shouldn't be overlooked

(Oliver *et al*, 2005), contrary to Zerbib who suggests there is “no need to get fancy with your interview transcription” (Zerbib, S. in Babbie, 2004: 387). Baily’s (2008) *First steps in qualitative data analysis: Transcribing* and Oliver *et al*’s (2005) *Constraints and opportunities with interview transcription: Towards reflection in qualitative research* are two papers on the rarely referred to issue of transcribing. Oliver *et al* write that “it is possible to piece together a sustained argument for denaturalized transcription by examining the actual practice of grounded theory” (Oliver *et al*, 2005: 5). A mild denaturalised transcription strategy was adopted, utilising a handful of the basic transcription conventions listed by Bailey (2008), with this decision again being influenced by the research questions.

The questionnaire element of this research was a progressive developmental step in the construction of an index hypothesising custody trained police sergeant interpreter need determination, where the index is designed to be reflective of the constructs and dimensions discovered by the grounded theory exploratory semi-structured interviews. Thus, through triangulation, an analytical survey design sought to begin to validate these initial findings by presenting them to a wider range of participants, with subsequent statistical operations upon the resulting data providing validation. This analytical strategy mirrors that used by Wakefield *et al* (2015) in their paper *Perceptions and profiles of interviews with interpreters: A police survey*. However, differing from Wakefield *et al* is the final product of an attitude scale which represents a synthesis of the qualitative and quantitative research in relation to interpreter need determination (Babbie, 2004).

Social scientists develop composite scales or indexes to overcome problems of unreliability and bias associated with using singular attitudinal questions (Babbie, 2004). Whilst scales are potentially superior, indexes are more widely used and far simpler to construct, with the Likert scaling procedure one of the most commonly used in contemporary questionnaire design (Oppenheim, 1992). It is also typically used in simple index design (Babbie, 2004). Coon (2016) used a Likert-type scale in his web-based questionnaire to police officers. The Likert procedure, a 5-point scale anchored between points of ‘strongly agree’ and ‘strongly disagree’ offers an unambiguous order of response categories (Babbie, 2004), and is far less laborious to construct than a Thurstone scale, but has been shown to correlate well to them (Oppenheim, 1992). Along with the Likert scale which the questionnaire instrument in this study utilises, Oppenheim (1992) provides an overview of the three other best known methods of attitude scaling: Bogardus, Thurstone and Guttman scales.

The reliability and validity of the questionnaire is related to the reliability and validity of its items: they must convey the same meaning to all participants, and stimulate accurate, relevant data (Berdie *et al*, 1986). Babbie (2004) outlines the four main steps to index construction: selecting items, examining empirical relationships, scoring the index, and validation. Oppenheim (1992) provides guidance in relation to attitude statement selection, in particular, the use of vivid expressions of attitudes from interviewee’s as items in an attitude

index, where attitudes are emotional, rather than stilted and rational. This not only makes the index meaningful, interesting, and fresh, but also potentially contentious, and thus produces the essential 'hook' Berdie *et al* (1986) refer to in a well-constructed questionnaire. For this reason, Oppenheim (1992) emphasises the importance of the initial in-depth interviews and conceptualisation, which are the core ingredients to a good attitude scale. But as Berdie *et al* (1986) stress, the difficulty is often in the selection of the items that are really needed. Oppenheim's (1992) suggestion of beginning with 100, 200, possibly 300 items, where more items increase the likelihood of scores meaning something to the underlying attitude rather than aspects of it would not be feasible in terms of the survey populations' available time, particularly against the back-drop of the poor interest in interview participation. Whilst Berdie *et al* (1986) advise that the respondent's view of the survey's meaningfulness rather than length will determine their decision to respond, the 60-100 proposed by Oppenheim's (1992) second development wave was adopted. To reduce the number of items, attitude statements duplicating dimensions were removed, although Oppenheim points out that "the same attitude may express itself in different ways in different people, while some may have no such attitude at all" (Oppenheim, 1992: 179). Whilst Oppenheim (1992) suggests randomised ordering, Berdie *et al* (1986) state that grouping items in logically coherent sections is better, because randomisation creates chaos both in appearance and in thought, with the researcher then losing control over that order. Because even a randomised order will have some effect (Babbie, 2004). As Berdie *et al* write, "the appearance and arrangement of the questionnaire of the survey form itself is vital to the success of the study" (Berdie *et al*, 1986: 22).

The self-administered questionnaire instrument was designed using an online software called Lime Survey, which is a tool the police force being sampled already possesses, and that the researcher already has access to. Therefore, it offered security by operating within the organisation's firewall, familiarity to participants, and functionality at nil cost to the researcher. This format offers advantages that would have been unavailable to Oppenheim or Berdie *et al*, such as accessibility, space saving drop-down boxes, colour and aesthetic features (Kaye *et al*, 1999) in a cost-effective way (Regmi *et al*, 2016). Kaye *et al*'s (1999) *Research methodology: Taming the cyber frontier* and Regmi *et al*'s (2016) *Guide to the design and application of online questionnaire surveys* both provide specific guidance on maximising online surveys as a research tool. Once designed, it was road-tested on three non-custody trained individuals for clarity. When finalised, a link to the questionnaire was emailed to all individuals within the extended sampling frame, consistent with the interview invitation. The survey was 'active' for approximately 4 weeks, mirroring the duration of the online survey employed by Kaye *et al* (2010). In addition to the simplicity of distribution, the use of the online tool facilitated easy collection of data, and the transferal to different formats, such as Excel and SPSS. One challenge that online surveys do present to the modern researcher is the issue of consent (Kaye *et al*, 1999). Where Ginde *et al* (2010) took consent to be implied through completion of the survey, this instrument followed Regmi *et al*'s (2016) suggestion to include a clear mandatory consent question.

Consistent with Coon's (2016) web-based survey to police officers, the survey was voluntary and anonymous. However, in using voluntary participation, sampling bias was liable to be introduced (Massey, 2016). But by using a carefully defined survey population with an online tool, Kaye *et al* suggest "researchers are more likely to reach a representative population, albeit a self-selected sample of their intended audience" (Kaye *et al*, 1999: 332). Although this sample may itself incorporate a response bias (Babbie, 2004; Kaye *et al*, 1999) particularly where non-response rates are low. Strategies to maximise response rate were therefore adopted, following Berdie *et al*'s (1986) guidance. Duplication was a further methodological hurdle (Kaye *et al*, 1999), yet whilst personalised invitations were available to mitigate duplication, due to the time required to complete the survey and its original topic, the likelihood of duplication was incredibly low, and this tactic was not adopted. Only completed surveys were analysed, further eliminating the possibility of any duplication.

3.5 Analytical strategy

Although Bailey states transcription is the first step of analysis (Bailey, 2008), the grounded theory approach employs the constant comparative analytical method (Babbie, 2004) meaning analysis starts on the first day of data collection (Birks *et al*, 2011; Corbin *et al*, 2008) in a cyclical interplay between data collection and theory (Babbie, 2004). Initial coding is the first step in grounded theory analysis, where each transcript is examined in detail, line-by-line, compared for similarities and differences, and questions asked of the data (Babbie, 2004; Birks *et al*, 2011) which are then further explored and dimensionalised (deconstructed) within the ongoing data collection (Grbich, 2013). Codes and categories are derived by the researcher's analysis, rather than from known theory (Babbie, 2004), and tend to be labelled after language from the data or gerunds (Birks *et al*, 2011). Memos are important in this process (Babbie, 2004; Grbich 2013). Whilst essentially grounded theory analysis is categorical, it is not simply a descriptive account, but the creation of an abstract conceptual framework (Birks *et al*, 2011), although the method to arrive at this framework varies (Grbich, 2013), reflecting the inherent flexibility within the grounded theory approach (Birks *et al*, 2011; Grbich, 2013). Babbie describes it not as a linear process, but as the creation of chaos and finding order within it, and "as much an art as it is science" (Babbie, 2004: 375).

Babbie (2004) presents a simplified analytical explanation, with initial open-coding and hierarchical coding, but without the reference to the core category identification that is an integral part of developing a formal grounded theory according to Grbich (2013). However, this research preferred to follow the Straussian approach of a three-phase coding process (Grbich, 2013), about which Birks *et al* (2011) describe a three-stage coding process corresponding to the level of conceptual development: initial, intermediate and advanced. A central idea within grounded theory is the identification of a core category or concept that encapsulates the process apparent in the categories and sub-categories, has "grab", and is often a high impact dependent variable of great importance (Birks *et al*, 2011). Intermediate coding, as described by Birks *et al* (2011), or also referred to as axle coding (Grbich, 2013), requires attention to be turned to generating codes around this core variable (Birks *et al*, 2011). It is this concept and its related categories and sub-categories which drives theoretical sampling saturation, and marks the arrival at the advanced analysis stage, and the development of high-level concepts and dimensions (Birks *et al*, 2011; Grbich, 2013).

The research strategy involved the conversion of dimensions into items forming attitude scales within an online questionnaire. To continue the grounded approach, the statements were sourced from comments made by interviewees to the semi-structured interviews. Oppenheim (1992) describes the process for validating proposed attitude scale, where only careful item analysis and correlational studies can show when inclusion or exclusion of an item is justified. However, a primary question is whether any correlation exists at all (Howe, 1955 cited by Lawley,

1971). Where no external criterion was available (as is rarely the case) for the item analysis to correlate against to assess the reliability of the indices, an 'internal consistency method' was employed. This draws upon the assumption that a purified version of the total item pool will be at least consistent, homogenous, and measuring the same thing, making it the best available measure (Oppenheim, 1992).

Initial exploratory reliability analysis was conducted within SPSS, following Field (2013). This was initially conducted on the full list of items, but rather than immediately deleting the items that were not correlating, and thus appearing to not measure the same thing as the total score (Howitt et al, 2011), the theorised multi-dimensionality of the data set was acknowledged. Reliability analysis was applied to each dimensions' sub-dimension item list, rather than the overall list (Field, 2013). For each dimensions' sub-dimension item list, repeated reliability analyses were conducted. Item lists of sub-dimensions were reduced one item at a time, primarily using the 'Cronbach's Alpha if deleted' column produced by SPSS, until reliability could no longer be substantially improved. Then residual poorly correlating items (<.3) were removed. In most cases, items inhibiting reliability were also poorly correlating. Table 1 shows the development of item volumes and Alpha coefficients for each dimension. Whilst this method is contrary to Howitt *et al*'s suggestion "to exclude only the poorest of items" so a scale with sufficient range remains, they also acknowledge that ultimately the length of the final scale involves a degree of researcher judgement (Howitt *et al*, 2011).

Whilst index validation is an important first step, where the independent contribution of items is assessed, it isn't a test (Babbie, 2004). Oppenheim (1992) advises that factor analysis is better than the internal-consistency method, and facilitated by analytical software, it becomes a tool for theoretical investigation and further discovery. It is a complex computer assisted multivariate operation to discover patterns among variations through the generation of artificial dimensions (factors) that correlate highly with several of the real variables independently of one another (Babbie, 2004). Factor analysis is a popular and proven technique that provides a "reliable means of simplifying the relationships and identifying within them what factors or common patterns of association between groups of variables underlie the relationships" (Miller *et al*, 2002: 174-184). And certainly, where there are many questions or items, Howitt *et al* (2011) suggest using factor analysis to explore the pattern of inter-relationships between the variables. However, whilst both efficient in process and simple in its presentation, Babbie (2004) highlights two distinct disadvantages associated with factor analysis: factors are generated without regard to any substantive meaning; and hypothetical solutions suffer from a defect of being disprovable. But as Costello *et al* (2005) remind us, factor analysis is exploratory, and is designed to be and is most appropriate for exploring a data set, rather than testing hypotheses or theories. And thus, it is most suitable to this research design and the validation of the theorised dimensions following Oppenheim's instructions.

However, in their recent bulletin relating to the use of p-values, the American Statistical Association (ASA) advised that “no single index should substitute for scientific reasoning” (Wasserstein *et al*, 2016: 12). Factor analysis is not always an exact science (Miller *et al*, 2002), and certainly requires researcher interpretation to translate factors to more meaningful constructs (Babbie, 2004). This is important for the analytical strategy. One could interpret the ASA’s bulletin, to be encouraging the bridging of what Green refers to as a “meaning gap”, where the pursuit of more scientific (policing) research has often meant settling for “statistical results-absent contextual meaning” (Green, 2014: 202). In addition to a univariate analysis of the grounded attitude statements, thematic analysis and comparison with a small number of targeted open questions allowed for this context to be explored further, and placed alongside the findings of the statistical operations. And where the assumption of scale linearity was made within the attitude scale formulation element of the research design, which some argue is a technical violation, as is the subsequent employment of parametric tests (Field, 2013; Oppenheim, 1992), it may therefore be even more important that “researchers...bring many contextual factors into play to derive statistical inferences” (Wasserstein *et al*, 2016: 9).

3.6 Design limitations

This study, as with research generally, is not without limitations (Pryce, 2016). Recognition of bias and limitations within a research design is important to add rigor to the design, where facts and indeed researchers are not theory-neutral (Babbie, 2004), much like the positivist application of scientific methods (Bottoms, 2008).

Researchers are not theory-neutral (Babbie, 2004). Thus, following Valdes (1990) and the traditions of interpretative research, no strict claim to researcher objectivity is made. Although like Egharevba *et al*, the researcher “tried to stay as close to the truth as possible as it was relayed” through the participants’ comments (Egharevba *et al*, 2013: 252), utilising memoing, audio-recording, and a denaturalised transcription strategy. Furthermore, as suggested by Berdie *et al* (1986), care was taken within the questionnaire design to ground attitude statements in those collected in the semi-structured interviews. This gave continuity to the accurate reflection of participants’ truths.

Fundamental issues within social research are design reliability (Babbie, 2004) and validity (Westmarland, 2011). Westmarland goes on to wrap these distinct concepts together in relation to research design, suggesting three Rs of validity: reliability, replicability, and representativeness, where validity refers to an instrument measuring what it is supposed to be measuring. Reliability, a pre-condition to validity, refers to the notion of consistency of administration and measurement with minimum error (Oppenheim). Both the interview and the e-questionnaire are simple instruments able to be consistently delivered by a researcher. The attitude scales developed for the questionnaire utilised statements made by interviewees, increasing reliability through consistency of meaning to participants. Furthermore, the scales produced, as measured by Cronbach’s Alpha coefficients, and reduced through the internal consistency method of index validation, generated reliable individual attitude scales representing the theorised dimensions with acceptable Cronbachs’ Alphas (see table 1). However, reliability means consistency of result over multiple samples (Babbie, 2004), and thus reliability, and by definition validity of the study, is reliant upon further research generating similar results (Egharevba *et al*, 2013). Reliability is therefore a limitation of the study design, but not due to its apparatus per se, rather its exploratory nature in a sparsely researched field. This limitation is consistent with other exploratory work, such as Nilson *et al* (2006) and Pryce’s (2016). And whilst Khondaker *et al* (2016) state that only additional studies copying the study design can determine replicability, this study design was theoretically grounded, technically simple and inexpensive, making it straightforward to repeat. Indeed, employment of the redacted attitude scales may even increase future response rates (Berdie *et al*, 1986). And here we arrive at Westmarland’s third R, representativeness.

3.6.1 Design limitations: Representativeness

A common meaning of representativeness is that “the aggregate characteristics of the sample closely approximate those same characteristics in the population”, where those characteristics “are relevant to the substantive interests of the study” (Babbie, 2004: 189). And as Babbie (2004) further explains, normally each unit of analysis has an equal chance for selection. However, this mixed-method study was exploratory in nature, it was not designed to be representative. Moreover, voluntary participation was prescribed as part of securing access to the study population, and thus non-representativeness was always going to be a by-product of this ethical free-choice participation (Massey, 2016). Nonetheless, generalisability of results is dependent upon representativeness (Berdie *et al*, 1986; Babbie, 2004), therefore any findings gained are not generalisable and “observed estimates and associations” may contain bias (Ginde *et al*, 2010: 206).

Like other grounded exploratory studies such as Nilson *et al* (2006), Egharevba (2013) and Pryce (2016), little emphasis was placed on statistical representativeness within the design. It sought to secure the participant’s own truth, rather than collect a restricted or robotic response based upon organisational doctrine. The design wanted to harness the voices of rank-and-file as agents of change (Wood *et al*, 2008). Yet despite employing strategies to maximise the response rate as directed by Berdie *et al* (1986), a 13% response rate to the e-questionnaire was achieved. Thus, sampling bias, where respondents in the sample differ from non-respondents in some systematic way (Crow *et al*, 2008) would be a viable criticism of the study. Indeed, Coon (2016) experienced this with his web-based questionnaire of police officers. However, Berdie *et al* write “in certain studies we have little reason to assume that non-respondents differ from respondents on dimensions relevant to the study” (Berdie *et al*, 1986: 43). The anecdotal feedback from respondents in relation to the e-questionnaire, such as the lack of free time, the script length and a possible research apathy, do not indicate reasons why non-respondents would differ substantially from respondents. The inability to release custody personnel to participate in the study during their shift, and the decreasing response rates to this force’s staff survey certainly support the anecdotal feedback, rather than any systematic difference in non-respondents.

A key finding from both samples, which both showed considerable variety in respondent type, was variation amongst participants within the thematic strands and questionnaire attitude scales. Thus returning to Babbie’s definition of representativeness, whilst statistical representativeness was not achieved due to the employment of non-probability techniques, generating a small sample size within which there is potential for sampling bias, there is no obvious reason why non-respondents would respond any differently. Indeed, results of this study in relation to interpreter need identification were consistent with those published by Wakefield *et al* (2015) for police officers in Queensland, Australia. Skinns *et al* (2017) did note that generalisability of results in relation to custody suites is hindered by the existence of different

types of custody suite, however, the findings of this study are based on Custody Sergeants from different custody suites within the force, including some with experience of working in more than one custody suite. Moreover, HMIC recently identified diversity training issues within its recent inspection of Hampshire custody facilities, inferring a potential for transference to at least one other force. So, whilst the descriptive statistics generated by this study must carry the caveat of being non-representative, great value remains in the informative accounts obtained through non-representative methods (Egharevba, 2013).

3.6.2 Sample size

Representativeness is also related to the “crazy statistical wizardry” used by social researchers (Babbie, 2004: 179). Where conceptual saturation was the aim of the theoretical sampling (Corbin *et al*, 2008) employed through semi-structured interviewing, using a constant comparative method (Babbie, 2004; Birks *et al*, 2011), sample size becomes relevant within statistical operations, and importantly to the analytical strategy, to both bivariate correlational analysis and multi-variate factor analysis. In total, only 42 completed e-questionnaires were collected through the availability sample technique employed in this research design, from a total force-wide study population of 324 custody-trained officers.

The attitude statement items in the questionnaire, or better referred to as sub-dimensions, should have correlated if they were measuring the same dimension(s) (Field, 2013; Miller *et al*, 2002). However, the initial exploratory correlation showed many of these variables not to correlate, at least significantly, where theoretically they should have, particularly within their respective dimensions. This lack of overall correlation can be explained by the small sample size of the data set affecting the standard error, and thus increasing the p-values of the correlation coefficients (Field, 2013). Therefore, where many of the correlation coefficients infer items are measuring different constructs, rather than the same dimensions as theorised, it is the small sample size which inhibits the detection of associations which may be present. Miles *et al* (2001) warn researchers faced with these circumstances against incorrectly concluding that variables are not related, when in fact they are related. In more technical terminology, it is the correct procedure to “fail to reject the null hypothesis”, rather than accept the null hypothesis (Miles *et al*, 2001: 135).

Sample size was also an inhibitive factor to completing the factor analysis detailed within the analytical strategy. Sampling adequacy, in the form of the Kaiser-Meyer-Olkin (KMO) measure of sampling adequacy, is part of the initial screening process of the factor analysis operation. The KMO was .162, far below the minimum requirement of .5. Field jestingly categorises this .5 value as “merde” All KMO values for individual items (except two) were again below 0.5. KMO values nearer to 0 indicate “that the sum of partial correlations is large relative to the sum of correlations, indicating diffusion in the pattern of correlations” (Field, 2013: 684). In such circumstances, particularly where the correlation matrix indicated poor correlation, Field (2013) suggests further data collection to improve KMO values, with factor analysis inappropriate with such poor KMO values. The solution generated by the factor analysis, which it will always do (Babbie, 2004), was therefore unusable (Field, 2013). Thus, the small sample size was a limitation that requires acknowledgement. However, it was not necessarily a product of the research design, as already discussed regarding representativeness, more likely a by-product of limited time, apathy and possibly a long questionnaire script.

3.7 Summary of the research design

A mixed-method design, using semi-structured interviews and a questionnaire instrument, were used to explore how Custody Sergeants' determined interpreter need amongst detainees. Being best-suited to exploratory research questions (Babbie, 2004) and micro activities (Grbich, 2013), a grounded theory approach applied with semi-structured interviews facilitated the discovery of concepts and sub-dimensions, forming attitude indexes constructed from the comments made by interviewees (Oppenheim, 1992). These were then placed in a questionnaire instrument and administered to a wider sample population in order to generate more data to which statistical operations, namely internal-reliability analysis and factor analysis, could be applied in order to reduce the index sizes and produce a valid attitude index for the concepts identified. The research design therefore acknowledged the "serious risks" and error in a using single question to measure a non-factual attitude, and overcame this through employing the "linear scaling model" to create attitude indexes grounded in the voices of respondents (Oppenheim, 1992: 150). Triangulation through a questionnaire was therefore was not employed simply as a validation tool (see Noakes *et al*, 2004), but as part of a scaling procedure which refined the concepts identified (Oppenheim, 1992). As stated in the previous section, whilst a factor analysis was conducted following Field's guidance (2013), the sample size achieved by the questionnaire instrument stopped a reliable factor analysis, meaning no conceptual verification could be reported from this specific operation. Nonetheless, an internal-consistency method reliability analysis was performed, and whilst not as good as a factor analysis according to Oppenheim (1992), it facilitated a reduction in the index sizes, and supported conceptual development.

Ultimately, Westmarland (2011) emphasises the importance of research designs enabling conclusions drawn to be believed by readers. This research design combined interviews, the mainstay of qualitative projects (Westmarland, 2011), and online surveys which are excellent vehicles for sampling those accessible through computer devices (Kaye *et al*, 2010), alongside a grounded theory approach (Corbin *et al*, 2008). Furthermore, its limitations have been considered and discussed, adding further to the rigor of the design (Babbie, 2004). Through this well-used triangulated research design, and text book analytical processes (e.g. Corbin *et al*, 2008; Oppenheim, 1992; Field, 2013), the researcher is confident readers will believe the findings and conclusions documented. Moreover, it is hoped that this research design will provide a foundation and stimulation for further research and policy development in relation to detainee interpreter need determination. Findings will now be discussed.

Section 4-Results

Within the context of the statutory yet discretionary provision of interpreters to non-native speaking detainees following PACE Codes of Practice C, the research questions asked how Custody Sergeants determine interpreter need, and with what tools? The literature review placed this determination not only against practical reasons of information-exchange quality, but within the procedural justice framework, and thus theoretically relating the determination to improved perceptions of policing legitimacy within non-native speaking minority communities.

Nine exploratory semi-structured interviews were used to conceptualise the police officer determination, which was further explored through 42 completed e-questionnaires. Four key themes relating to the interpreter determination were identified by the researcher, under which most responses could be clustered: competency discovery mechanisms, competency threshold construction, perceptions of linguistic vulnerability and linguistic naivety. These themes contributed to a sense of 'doubt' on behalf of the Custody Sergeant, and what the researcher has conceptualised as a fifth theme, 'comprehension doubtfulness'. Significantly, considerable difference between respondents was apparent both across and within these themes, thus demonstrating discretionary variance in what it is a statutory provision. Results also showed a lack of awareness of procedural justice theory amongst participants, but equally, considerable value and worth in its application, where neighbourhood policing is perceived to be eroded and a reliance upon top-down engagement with minorities prevails. Each theme will now be discussed.

4.1 Competency discovery mechanisms

The principle research question related to exploring how Custody Sergeants determine whether a detainee requires an interpreter or not for the booking-in procedure. Checks for understanding were commonly used, both interactive and observational, seemingly discretionary in both their application and interpretation. For example, participants used reading-aloud from a book or the rights and entitlements sheet, conversational quality, accent, response time, repetition, and non-verbal communications amongst other indicators. Hence the label 'competency discovery mechanisms'. This reflects Custody Sergeants trying to become linguists, as Cotterill observed in relation to the comprehension check of the police caution (Cotterill, 2000). Cooke (2002) states that only suitably qualified linguists or teachers can use patterns or errors in a learner's English to determine proficiency and whether they need an interpreter, although police officers have been found to be, at times, ingenious in their ability to overcome the language barrier (Gibbons, 1996). Some examples will now be critiqued.

"Non-verbal communications, so something that they do which makes me think they don't understand. So, you know, a shrug of the shoulders or their hands, or a face which suggests some form of confusion because they don't know the question I am asking or are unable to answer it. I think if someone says 'no speak English', then you've got to be guided by them to some extent irrespective of what your thoughts might be, as to whether they are trying to stall the inevitable". (ID 12)

The use of non-verbal communications as an indicator of interpreter need was one of the most frequently mentioned tools. All interviewees referenced it, and 88.1% of respondents (37 of 42) agreed with using this approach. However, Cheng (2005) explains decoding rules are learnt as children, and so people's ability to decode and interpret others' non-verbal and verbal behaviour is subject to cultural variation embedded in language (Cheng, 2005). The conceptualisation, perception, experience and expression of emotions have been shown to be both similar and different across cultures (Matsumoto, 2001; cited by Cheng, 2005). For example some cultures may use gestures more than others, such as hand movements and touching during talk, which can be misinterpreted (Ainsworth, 2002). Some interviewees did make reference to specific cultural non-verbal differences they were aware of, such as a 'tutt' sound accompanied by a swinging of the head to signify an informal 'no thank you' in Turkish (ID 12), but these examples were sparse. Thus, there is clear potential for miscommunication through interpretation of non-verbal communications. Even gaze aversion has been shown to be a pan-cultural signal of deception, it still varies (Global Deception Team, 2006). Furthermore, using English as a second language can serve to distance that person from their emotions and become more emotionally neutral (Bond, 1986; cited by Cheng, 2005), thus making reliance upon non-verbal communications in English within non-native speakers even more unreliable.

Silence is another example of non-verbal communication, where the widespread Anglo interpretation as an indication of communication trouble can cause considerable communication difficulties (Eades, 2012). For example, Aboriginals use silence as an emphatic device to show respect and consideration to the question (Cooke, 2002). Thus, silence or pause, and thus response time, could potentially be misconstrued. Response time was mentioned by a number of interviewees as a potential indicator of interpreter need:

“You can see it quite often in the response time. So, if someone is having to think long and hard about what you are saying, sometimes they’ll ask you to repeat certain parts of a phrase. Sometimes they will give you a response that’s very quick, but actually slightly off the mark from what you’ve asked. So again, it’s really important” (ID5)

59.5% (25 of 42) felt response time was an indicator. On the one hand, response time in lower competency cases can be a product of a language barrier (Delgado *et al*, 2016), and thus this result reflects police officers’ ingenuity (Gibbons, 1996). On the other hand, Thornby found that by pausing for around 4 seconds, rather than 1-2 seconds, language learners responded for longer and initiated more questions within a discussion context (Thorby, 1996; cited by Broady, 2005). Thus, pausing may just be a practical requirement for the language learner to participate in the dialogue. After all, expressing opinions, particularly on unfamiliar topics, is a demanding cognitive task for a language learner, so it is likely to lead to reduced fluency of communication (Broady, 2005). Therefore, a slower response time may not necessarily be a decisive indicator of interpreter need, only if coupled with other signals, such as use of limited vocabulary or visible confusion, as in the case of the Sureshbhai Patel, ‘The Indian Grandfather’ case, where an elderly Indian tourist was left in a paraplegic state by Police Officers after failing to understand commands when stopped at the side of the road. And thus, response time may only be an indicator at lower English competency levels.

“I think the nature of the offence comes into it as well, because if someone is in custody for a shoplifting and you think they have the ability to answer some questions around taking that item and knowing right from wrong. I think if you are looking at a more complex investigation, then that could potentially change” (ID12)

11.9% of the respondents (5 of 42) felt ‘the nature of the offence comes into it as well’, again partially reflecting Wakefield *et al*’s (2015) findings where interpreters were more likely to be used in more serious cases such as sexual assault, assault and domestic abuse, for reasons of cost, time, and case integrity, and even cynicism of interpreter use. However, PACE Codes of Practice C does not make any differentiation by offence type. Rather it only allows for interview without an interpreter (PACE Codes of Practice C, 11.18c) where the consequences are imminently serious as laid out by PACE Codes of Practice C, 11.1, and with the authorisation of a Superintendent rank. There is specific emphasis to “safeguard the fairness of the proceedings”

(PACE Codes of Practice C, 13.1A) rather than any support for varied application of PACE according to the offence(s) under investigation. And thus, the offence type should play no role in the determination for an interpreter, and the fairness of the process and the level of participation afforded to the detainee should be consistent.

“It might be that they’ve been in the UK for a certain amount of time or that they’ve had some sort of education background, where by English they know to a sufficient standard to be able to hold a conversation and understand everything perfectly well” (ID4)

11.9% of respondents (5 of 42) felt the length of time the detainee had been in the country would indicate a higher competency. This assumes greater practice and repetition of language tasks as result of being in the country longer, to increase language competency (Broady, 2005). However, Yu (2016) demonstrated isolation of non-native speaking communities and linguistically supported provisions insulated non-native speakers against exposure to English, and in some cases their competency of English decreased. Aging is another factor associated with declining second language competency (Gorral, 2004), as is the effect of health events on cognitive ability (Fryer et al, 2013). The importance of a current assessment can thus be seen, where 66.7% of respondents (28 of 42) said they would use the detainee’s previous custody records as an indicator. Competency can change over time, and not just positively. Furthermore, using length of time in the country overlooks the functional relationship between economic migration and language, where often many migrants hold language skills relative to their employment and life needs, rather than achieving full competency (Soto Huerta *et al*, 2015). And most Eastern European migrants to the UK are economically motivated (Stansfield, 2016). Thus, non-native speakers may appear more competent than they actually are where language topics are simple and familiar, as well as through the employment of techniques which support fluent dialogue, such as scaffolding, where learners re-use the other speaker’s words (Cooke, 2002), or devices which help manage speaking, filler phrases or general words (Broady, 2005). One participant went as far as to say, “you’ve only got to look at the way they say ‘mate’ with a thick accent to know they have spent time in the local area and picked up the language” (ID 15). Duration of stay therefore can be a deceptive indicator to potential competency:

“Pronunciation. And can they read the words? Or are they stuttering and stumbling or having to read it phonetically. Because sometimes that can be a sign that they don’t fully understand” (ID10)

50% (21 of 42) said they would ask detainees to read the ‘rights and entitlements’ sheet to gauge their English. However, this simply tests detainee’s ability to identify and replicate the phonetic sounds from which the words are constructed. Furthermore, the use of reading as a proxy measure for listening incorrectly assumes equality of difficulty across the skills of reading, writing, listening and speaking (Broady, 2005). Listening is much harder than reading (Brière,

1978), and productive language skills (i.e. writing and speaking) are more demanding than receptive skills (reading and listening) (Broady, 2005). And the longer the sentence length, the more difficult it will be to read and comprehend through listening (Brière, 1978). Moreover, the written language used in books and documents may not reflect the language used in daily life (Cuentos *et al*, 2011). And even then, knowing words is no guarantee of understanding (Broady, 2005), particularly where idioms constructed of familiar words are used (Kim, 2016). For example, knowing the verbs 'give' and 'up' doesn't mean you will understand the two-word verb 'give up' (Brière, 1978). There is also evidence that when adults are tested, they score higher in their native language than their second language (Literacy in Europe, 2015). Thus, reading aloud in English is neither a proxy indicator of listening competency and comprehension, nor a likely replication of the difficulty of task to be faced. Consideration also needs to be given to the multiple international studies which show between 60-80% of prisoners have below basic levels of reading and writing skills, with the link between literacy, where the link between literacy and criminal activity is well established (Ibid).

Most respondents, 92.9% (39 of 42) said that they would be guided by the detainee if they said, 'no speak English'. Worryingly, 3 participants were not in agreement with this statement, where Morris states detainees shouldn't be forced to use English (Morris, 1999). Whilst this is a type of 'self-assessment', it would be for those of minimum competency. The determination for those with some competency is much more complex (Valdes, 199), and so the decision whether to use an interpreter is most relevant for this the middle competency grouping (Ewens *et al*, 2016). So, its perhaps reassuring that respondents placed little weight upon detainee self-assessment, emphasising the importance of the Custody Sergeant's responsibility in the determination within the management of detainee's risk and procedural integrity. Despite being suggested by PACE Codes of Practice C (guidance notes 13B), self-assessment poses substantial difficulties, hence why Cooke only advises self-assessment of interpreter need where the interpreter role is specifically explained through audio tape in the detainee's native language (Cooke, 2002). Although some interviewees did acknowledge the potential difficulty detainees might face in self-assessing, 21.4% (9 of 42) felt self-assessment was easier than the Custody Sergeant doing it. In this context, the danger in seeking the opinion of the arresting officer, which 40.5% (17 of 42) said they would do, becomes more apparent. As is being reassured of competency by the detainee's family members or associates, as 38.1% (16 of 42) respondents said. Unless those giving this reassurance are suitably qualified (Cooke, 2002) with a knowledge of the custody process the detainee is facing (2000), which is highly unlikely, this information is of little accurate value for the Custody Sergeant's determination, and will pollute the determination. Although it must be said that many interviewees emphasised the importance of employing multiple discovery mechanisms and "building that picture" (ID12), as well as being flexible in accepting the determination could be re-assessed at a later stage.

“Within a few very basic questions, before you get into the booking in procedure, it’s going to become apparent whether they’re understanding” (ID4)

Amongst the other mechanisms employed, 71.4% of respondents (30 of 42) felt understanding could be gauged within a few very basic questions (e.g. name, address). But as has been mentioned, more in-depth expression is more challenging for language learners (Broady, 2005). It is common for non-native speakers to be able to understand and participate successfully in topics they are more familiar with, rather than those they are not (Cooke, 2002). This is because commonly encountered words are more efficiently processed (Cuentos *et al*, 2011; Kim, 2016). As such, the booking-in procedure would therefore need to involve similarly common words, as those being used as a guide, such as name and address, for this to be an effective tool. However, if we consider word frequency as an analytical tool, as Brière (1978) did, because it is one of the most important variables in word comprehension and production (Cuentos *et al*, 2011), it is clear likely words used within the booking-in process are less frequent than these conversational basics, and thus are less likely to be known and understood by non-native speakers, and so be more difficult to cognitively process.

Each word corpus has its own nuances and limitations, as Cuentos *et al* (2011) describe. However, the Corpus of Contemporary American English will suffice for this comparative example. The frequency rankings of the nouns ‘name’, ‘address’ and ‘telephone’ are 299, 1031 and 1879 respectively, compared to the nouns ‘alcohol’, ‘suicide’ and ‘psychological’ which rank at 2211, 2294 and 2383 respectively. Nouns such as ‘harm’ ‘custody’ and ‘case’ (ranking 3683, 4470 and 4475 respectively) suggest decreasing commonality (www.wordfrequency.info accessed 5/8/17). In Brière’s case study, using the corpus by Carroll *et al*, (1971) the words ‘questioning’ and ‘attorney’ were identified as being extremely difficult and ranking higher in difficulty. In addition to word frequency, there exists substantial correlation between word length and processing time (New *et al*, 2006, cited in Cuentos *et al*, 2011). This is not to mention other aspects of speech such as speed and accent which could also hinder comprehension (Cooke, 2002). Therefore, employing basic questions to gauge competency is therefore not likely to provide an accurate signal for interpreter need, and then perhaps only for those with minimal competency. It is highly likely name, address and telephone number will form essentials for the successful execution of their daily life. Thus, with established cognitive schemas, they will be fluently answered by many non-native speakers.

The importance of this example, and others, is not only that they demonstrate the use of damaging tools, and the ignorance of potentially beneficial tools, they very much relate to those detainees who would possess at least some competency in English. However, participants also displayed more robust examples of checking for understanding, and thus demonstrating Gibbon’s (1996) finding of police officers’ using ingenuity to overcome language barriers. One interviewee did make specific reference to checking understanding by using the ‘explain back to

me' method, replicating the understanding verification suggested by Chaulk *et al* (2014), where they advocate detainees explaining the caution back in their own words, rather than simply reciting back. However, Cotterill (2000) showed duplication of wording to be a common mistake by police officers when required to re-explain the police caution through this kind of recital technique. It is effectively a form of language 'scaffolding' (Cooke, 2002). This officer related this approach to previous teacher training, hence it was not mentioned by others, having not received such training. Although other interviewees emphasised the probing of detainees' answers to check for understanding. Whilst these are positive techniques to be employing, the quality of their deployment was not assessed by this research. And in this context, consideration must also be given to the second theme identified, which is the perceived level of competency required to enable successful participation in the booking-in process.

4.2 Competency threshold construction

When answering the research questions of how Custody Sergeants determine interpreter need, and the tools employed to do so, another strong theme emerging from the data related to the required level of competency each Custody Sergeant assessed the detainee against. This theme was labelled 'competency threshold construction', referencing both the threshold constituting sufficient competency, and its formulation. Logically, Custody Sergeants will reference their competency threshold when determining the type of 'competency discovery mechanisms' to employ. In other words, each Custody Sergeant will have a pre-set idea of how much the detainee needs to be able to understand, which corresponds to a certain English competency level needed by the detainee. They will then attempt to check accordingly. However, it was apparent that substantially different thresholds were being employed by different participants, as the following examples demonstrate:

"I'm quite low (threshold), so I will phone the Big Word relatively early. Even if someone speaks fairly-good English. I think, certainly in custody, it's really important because of the nuance of the law. It's very easy I think to assume that because somebody speaks English that we can understand, they understand the nuances of some of the language that we're using. Especially when we're giving rights, and when we're interviewing. So, my threshold for calling an interpreter is lower than most I would suggest" (ID5).

"I'd have to put it as a percentage. And I'd have to say the person I'm speaking to would have to understand 85% of everything I'm saying to them. Including the most important parts which are physical injuries, physical illnesses, medication like that. There's going to be certain parts-if that person doesn't understand that there is CCTV everywhere in custody and its recording everything you say. And if you commit criminal damage in my cell you're going to be charged and going to court. If they don't understand that, then not perfect, but completely less important than those questions I need to look after their health and welfare" (ID2).

Where one participant was more conscious of the potential for gaps in understanding, another was equally focussed on the quality of the information required to care for that detainee but far less conscious of the nuances of language which could impede understanding, participation, and accuracy. They differed therefore in the understanding thresholds they were applying.

Respondents were asked the open question 'if an interpreter isn't to be called upon, how much dialogue within the booking-in procedure process would a limited speaker of English need to understand?' Two thirds (28 of the 42 respondents) said 100% or words to that effect, such as "all of it" (QID41) or "everything" (QID43), but 10 respondents gave answers suggesting incomplete understanding to be acceptable, such as "90%..." (QID25) or "the vast majority"

(QID19). Indeed, only two-thirds of respondents (28 of 42) disagreed with the statement 'If they're understanding 90% of it, we can get by without an interpreter'. Where one respondent robustly said, "they should have the opportunity to be able to understand as well as a native English speaker", and another "all of it, their care in custody is vitally important. You cannot risk missing what might be crucial information" (QID12), another said "90%. A lot of the booking-in process can be mimed or made simpler. Also, as it is prescriptive, it can be translated onto paper if not understood" (QID9). These results demonstrate the variance in what constitutes understanding, where some Custody Sergeants are content to allow what is essentially an incomplete understanding within the booking-in process. While Pavlenko (2008) advocates focussing on the provision of presented rights information through written, audio or oral translations, rather than what constitutes detainee understanding, many respondents indicated foreign detainees regularly dismissed or declined written copies of their rights and entitlements. 30% of participants (12 of 42) agreed. Moreover, PACE Codes of Practice C uses the specific terminology "(able to understand) ...in the same way as a suspect who can speak and understand English...and who would therefore not require an interpreter" (PACE Code C: 2017: 43), which is distinctly different from the "general thrust" as suggested by the Fair Trials International panel (2012), but is the interpretation seemingly used by some participants. Non-native speakers may be able to understand to a greater extent, and 'get the gist' by picking up on key words and tone (Cooke, 2002), and may well be used to doing this in their English-speaking life (Fryer *et al*, 2013). But this is not understanding like a native as stated by PACE, and could not be argued to be a complete understanding.

International examples where rights understanding have been actively challenged in court, such Pavlenko (2008) and Valdes (1990), show cases being lost at court after expert witness testimonies indicate that even highly socially functional second-speakers can still fail to understand specific aspects of their rights. For example, in the case Juan, a young man born in Mexico, but schooled for his teenage years in the United States, was arrested for a shooting. English was the language used in outside communities with Anglos and strangers, and in public situations where English was required. Although he appeared to speak English fluently, he did not speak English. He had serious limitations in English, with a limited range, having been only used casually in school or occasional business interactions, and not to talk about feelings or private and painful aspects of himself. His Spanish abilities far outdistanced his English abilities, and was the language of friendship, intimacy and everyday exchange among all individuals with whom he interacted. And so, by being interviewed in English the image of himself was directly affected. (Valdes, 1990). This example again demonstrates the impediment of cross-cultural non-verbal communications (Cheng, 2005). It also shows the high standard of social competency second language speakers can display without full understanding and competency (Cooke, 2002). When posed a similar example, 64.3% of respondents (27 of 42) felt they would call for an interpreter. However, results suggest that Custody Sergeants are more focussed on the lower levels of competency, and will likely overlook those in the middle competency bracket, or higher,

as Juan would be categorised as. As Valdes (1990) states, Juan would not have been eligible for an interpreter in that jurisdiction.

Moreover, the formulation of required understanding is without the added complication of non-natives potentially holding different conceptions of individual rights. In Pavlenko's (2008) case study of a Russian-born University Student at an American University arrested for murder, where the suspect was later found not to have knowingly waived her rights, Pavlenko explains that:

"...this lack of understanding (of her right to silence) could also have been displayed by some native speakers of English...(however, for her)...it was particularly acute because she grew up in Russia, a country that traditionally accorded little importance to the notion of individual rights (Pavlenko, 2008: 22).

Pavlenko's assertion of differing rights conceptualisations may seem far-fetched. Yet interestingly, some interviewees did make reference to Eastern European suspects, when detained, expecting a violent police 'beat-down'. One interviewee explained: "I think a lot of foreign nationals are used to having a very different police experience. You know, 'why have you not beaten me up officer?'... 'In...they just beat us and then we give them money'" (ID15). Eades (2012) also highlights varying cultural presuppositions about sickness and health. Thus, it cannot be ruled out that non-native speaking detainees do not possess the same awareness and expectations of rights as native speakers, and may unknowingly waive or fail to challenge decisions made.

Difference in competency threshold was partially attributable to differing perceptions of the linguistic demands of the booking-in process compared to the subsequent investigation interview. A third of respondents agreed with the statement 'for a limited speaker of English, in terms of communication, the booking-in process is less demanding than the interview'. One respondent differentiated between the flexible nature of the booking-in process which could employ comprehension mitigation strategies such as miming and pointing, and the "interview which can involve the use of legal jargon or more importantly obtaining an account may mean the detainee has to use extensive language skills" (QID7). Another said "if the defendant understands English to understand why they have been detained and complete the risk assessment process, then no interpreter is required. They may still require one for PACE interviews..." (QID23). By contrast, although also sitting within the 'most of it' category, another respondent referenced the complex language within the booking-in process "there may be some technical jargon that they might not have come across. For instance, talking about alcoholism and using this word might not be something they have come across, perhaps even words like dyslexia or offences such as 'uttering a false instrument' or 'interference with a motor vehicle'- all phrases that I myself might not have had little knowledge of prior to joining the police a

couple of decades ago" (QID 7). This example draws additional reference to the word commonality or frequency issue already discussed under the theme of 'competency discovery mechanisms'. The literature review found no study outlining the linguistic complexity of the booking-in process, only police cautions, interviews and court proceedings. Clearly there is an operational and legal need for this research to take place to identify a benchmark. But regardless of the comparative difficulty of the booking-in process, there exists possible challenging factors for non-native speakers when considering word frequency, word length and situational stress. Thus, the booking-in procedure may be a more linguistically challenging dialogue than many Custody Sergeants overall perceive, and they therefore underestimate the level of competency required by the non-native speaking detainee facing them across the custody desk.

Where a distinction was been made between the perceived linguistic demands of the booking-in and interview process by some participants, one respondent also alluded to a potential association between the booking-in interpreter determination and the police interview interpreter determination. This respondent remarked:

"Now I have a grasp of French, but in France I have several times caused confusion in a pub ordering 2 pints of underpants. Yet we expect non-native speakers who, just because they have got through a booking-in procedure, to be able to regurgitate the Queen's speech not taking into account the other stressors that might affect their own fears." (QID7)

Thus, where many felt the booking-in process to be less demanding than the interview, and that an interpreter for interview would be called where a requirement was determined, this comment suggests that the interpreter determination for the booking-in procedure may be at least a contributing factor to the interview interpreter determination. Whilst outside the scope of this study's research questions, it is an interesting and important point. Further research could be used to explore the correlation between the two determinations. This comment is noteworthy because it also suggests the booking-in determination could carry investigative significance, and not be confined only to the booking-in procedure and its risk assessment. Furthermore, if the detainee's custody record is then used as a guide-line for future determinations, as 66.7% of respondents (28 of 42) said they would do, the effect can then become longer-lasting for the interview phase as well.

The finding of variance in competency threshold is made even more interesting when considered against the unanimous commitment Custody Sergeants showed to ensuring a fair process and protecting detainee's rights and entitlements, reflecting the emphasis of PACE to "safeguard the fairness of the proceedings" (PACE Codes of Practice C, 13.1A). This included interpreter provision. To reinforce this point, all respondents (42 of 42) agreed with the statements 'I think it's right they should have the opportunity to access an interpreter should

they need it' and 'If there's any doubt, I'll get an interpreter'. All respondents agreed with statement 'I'm looking for somebody to actually understand the words and phrases, not just recognise them'. However, this presents a paradox, where Custody Sergeants are committed to provision and understanding, but the employment of unintentionally harmful tools and attitudes surrounding the interpreter need determination ultimately undermines any attempt to achieve their best intention. Where the focus of provision and understanding appears focussed towards the lower competency non-native speakers, it will therefore be the middle competency non-native speakers for whom this variance will have most procedural impact. Unsurprisingly, competency threshold also appeared to be related to the perceptions of linguistic vulnerability held by that Custody Sergeant, which was the third theme identified within from the study.

4.3 Perceptions of linguistic vulnerability

A further theme identified by the researcher related to aspects of the custody environment and process that would potentially influence a Custody Sergeant to believe a detainee who spoke no or limited English to be vulnerable, or otherwise. This category also incorporated vulnerabilities to other agents within the detention process as a result of the language barrier, such as to the Custody Sergeant or organisation.

69.0% of respondents (29 of 42) agreed 'detainees who are limited or non-native speakers of English are vulnerable because of the language barrier they face', and 64.3% of respondents (27 of 42) agreed 'being a non-or limited speaker of English makes a detainee vulnerable'. And thus, around a third of respondents didn't feel language needs generated vulnerability. Legislatively in England and Wales, linguistic vulnerability is not included in the standard definition in Section 16 of the Youth Justice and Criminal Evidence Act 1999, nor is it included within HMIC's definition of "...children, elderly people, disabled people, and those with learning difficulties or mental health problems (HMIC, 2017). And thus, those participants not in agreement cannot be labelled as 'wrong', but perhaps naïve, like the definitions used in England and Wales, as exemplified by the comment "why would they be vulnerable just because they can't speak fluent English?" (QID8). Despite no international definition of vulnerability (Bull, 2010), linguistic vulnerability is recognised in other common law countries like Australia (Bartels, 2011). Furthermore, this ignorance to language vulnerability is also within the context of wider police failure to identify vulnerabilities at the initial screening stage (Bartels, 2011; Fair Trials International, 2012; Young, 2013; Therapeutic Health Solutions, 2015). This comment and the associated results seem somewhat consistent with the "lack of awareness of diversity issues" identified by Skinns *et al* in their recent study of custody suites (Skinns *et al*, 2017: 363).

However, others acknowledged linguistic vulnerability, at least from different sources and with different potential effects. Consistent with the Fair Trials Panel (2012), 90.5% of respondents (38 of 42) agreed that anyone coming through the door to custody could potentially be vulnerable. As O'Mahony *et al* (2012) write, vulnerability can be defined to an extent by legislation, but situational factors that can make 'anyone' vulnerable are also important, whether environmental stress, personal resilience, or psychological factors such as cognitive load or memory.

"If they can't speak English. Of course, they are vulnerable. However, they are not vulnerable in the sense that we would put them in a vulnerable cell. But, in my perception as a Custody Sergeant that would make them more vulnerable from an understanding perspective, and if I haven't been able to get a full risk assessment from the person, then that would always make someone vulnerable anyway. Whether it's because

intoxication or language...But it may be that they're vulnerable, doubly vulnerable if you like, if they are intoxicated and can't speak the language" (ID 10).

This example shows the Custody Sergeant emphasising understanding, as others also did. 85.7% of respondents (36 of 42) agreed with the statement 'if they don't fully understand their rights and entitlements, then they're vulnerable from that perspective', with the integrity of the investigation undermined without detainee understanding. 85.4% of respondents (35 of 42) agreed with the statement 'if the detainee doesn't understand their rights, then you're looking at losing the investigation later down the line'. And respondents felt that there would be reputational repercussions for any wrong decision found-out at court: 95.2% of respondents (40 of 42) agreed that 'there's a risk to the reputation of the force if we make the wrong assessment around interpreter need, and a case is lost later on because the suspect didn't understand'. Thus, explaining why understanding of rights and entitlements, at least in principal, is so important to Custody Officers. However, when viewed in context alongside the themes of 'competency discovery mechanisms' and competency threshold construction', it becomes apparent that linguistic vulnerability is something that is applied more to detainees of lower competency, and again, the middle competency grouping is neglected and exposed.

The above example also highlights the importance of obtaining accurate information for the detainee risk assessment performed within the booking-in procedure. Another current Custody Sergeant was equally concerned with the information quality gained within the risk assessment:

"...the other thing that's really important is we're doing risk assessments. So I need to make sure that the information we are getting is accurate, to be able to do a proper risk assessment on somebody, and therefore provide them with all the support they need for their welfare" (ID 5).

However, only 71.4% of respondents (30 of 42) agreed that 'from a custody perspective, it's all about risk and harm. If you can't work out who they are, where they're from, and then all the risk assessment questions...you're in trouble'. A similar number, 69.0% of respondents (29 of 42) agreed that detainees 'may be doubly vulnerable if they are intoxicated AND have limited English'. This suggests possibly some participants possessed a more relaxed or less vigorous view than others. It is certainly evidence of further variance amongst what should be a relatively heterogeneous sample. It may also be another reflection of the weakness in front-end vulnerability identification highlighted within the literature base (Bartels, 2011; Fair Trials International, 2012; Young, 2013; Therapeutic Health Solutions, 2015).

Related to information quality, around a quarter (26.2%) of respondents (11 of 42) felt important information was lost because an interpreter fails to relay it back, and a third (33.3%)

felt they weren't really in control of the conversation with an interpreter. These findings may not be surprising within the context of literature relating to interpreter mediated interviews and use. Telephone interpretation generates a different dialogue in terms of content, but also one which is more challenging for the officer to control (Wadensjö, 1999). And where other research has found cynical views to interpreting by police officers (Wakefield, 2015), these particular results may indicate some rationale for Custody Sergeants to not utilise an interpreter on occasion where they anticipate a challenging conversation. Alternatively, it may be a signal to indicate the need for specific training in the use of interpreters, as many participants felt this would be useful for operational police work extending outside of the police custody suite, such as interviewing foreign nationals as part of an investigation. When dealing with non-native speakers, both with and without an interpreter, some participants at least seemed to feel in less control, and therefore vulnerable procedurally, although not physically.

"They are in a strange environment. They are surrounded by people who speak a different language. If it was me, and hopefully I wouldn't get arrested, but you know, if I was in Spain and I got arrested, and I was in a Spanish police station, and there was all this noise and confusion around me, and I didn't know what was being said, and people might become a bit paranoid. Are they talking about you? Are they talking about the investigation? Are they talking about what's going to happen to you? Its complete disorientation isn't it". (ID 12)

The custody suite, whilst "not perfect" (ID 1), was viewed by participants as a place where people and processes were in position to mitigate any risk to the detainee and their investigation. However, participants saw the hostility of the environment from a detainee's perspective, which was exacerbated by a language barrier, which could cause isolation and disorientation, where the detainee was likely to be already stressed as a result of arrest. They may be also concerned with their immigration status. 95.2% of respondents (40 of 42) agreed, 'detainees who speak no or limited English feel a sense of vulnerability because they don't understand what is going on around them'. No respondents mentioned the worry of caring for a dependent, which Abass *et al* (2016) found to be a relations barrier for British Pakistanis taken into custody. Nonetheless, 42.9% of respondents (18 of 42) agreed that 'if they don't speak English as a first language, the pressure on them is more than it would be if they were English speaking'. As one participant commented, "...being unable to fully comprehend procedures will increase the likelihood of mistakes and places the detainee under duress to answer questions they do not fully understand" (QID54). And thus, this participant is beginning to link understanding and interpreter provision with psychological processing pressure (cognitive load) and potential coercion. This is important, where Pavlenko (2008) states linguistic coercion is replacing physical coercion in police interviews.

Also from a detainee perspective, interpreters make the detention longer. 66.7% of respondents (28 of 42) said waiting for an interpreter slows up the system for the detainee, meaning they're liable to be in custody longer than an English-speaking detainee. Thus, detainees are less likely to self-assess or identify themselves as requiring an interpreter. Many participants referred to the difficulty to locate interpreters on occasion, particularly for face to face interviews: 90.5% of respondents agreed that 'for some languages, interpreters are really hard to get hold of', although the telephone interpreter service made it easier. However, on busy occasions when multiple arrests of the same nationality had been made, participants relayed accounts of having to grab a phone from another Custody Sergeant to ensure the available interpreter could be kept on the line to help process another detainee. Interpreter mediated interviews also take longer (Wadensjö, 1999). Thus, there is a time benefit to the non-native speaking detainee to go without an interpreter, and this may also relate to their conceptions of rights, fairness, and perceived need. But equally, non-native speakers could spend longer in detention than native speakers. Telephone interpreted conversations can also be faceless, so it can be difficult to speak about personal matters, and equally, interpreters may come from a connected network within the detainee's community, which may also dissuade self-identification (Wadensjö, 1999). Thus, non-native speakers, if being objective, are presented with having an interpreter and being detained longer and potentially involving a third party into their personal matters, or not, and having a shorter detention, but unsupported and as a result, a less fair and robust process.

The language barrier, by its nature as inhibitive to communication, can also mean non-native speakers are, for practical reasons, more likely to be subject to use of force quicker than native speakers. Interviewees accepted that in public order situations, although the word 'police' and the command 'stop' might be more commonly known words, in the heat of the moment, when individuals are fighting or highly stressed, it could be hard for non-native speakers to hear or understand commands. At the same time, police officers rarely can understand what is being said in languages other than English. Related to the custody suite, one participant commented:

"...personally, when someone's shouting, a lot of the time you can calm them down with your NVCs [non-verbal communications], ...obviously I won't know what they're saying. But it's how you speak to them, and how you deal with them. In some cases, we've got no choice but to use the restraints that we have to use, because of their safety, and our safety. And they won't be fully understanding, and through intoxication or whatever. Or just anger. And they are treated just like any white individual, or British individual. However, I think it must be very frustrating for them, and you're cognisant of that. Because, are they shouting, but I need water because they might be a diabetic, or going to have an epileptic fit or something. So you are thinking, gosh what are they shouting? But you still have a-you've got to think of their safety, and the safety of officers. You try your best. It's challenging". (ID10)

Effectively, because of the language barrier, police officers core non-verbal communications which they rely heavily upon to avoid the utilising the force they are permitted to use, become redundant, and they have no choice than to employ force for safety's sake. Officers can be at a disadvantage, as this participant said:

"...they understand enough to get through. But we're disadvantaged because we know very little, if anything, about the language they speak. So, we are definitely disadvantaged" (ID 1)

It means non-native speakers could be more likely subject to force, particularly in situations where a common language would normally offer a resolution opportunity. The same language impediment could also translate to difficulties for detainees communicating with staff outside of the booking-in process, such as asking for drinks, food and blankets via the intercom. Although no participants reported problems from their perspective, where face to face contact by a Detention Officer overcame communication barriers. Although one can empathise with non-native speaking detainees, particularly those with less competency and confidence, who are required to use an intercom to buzz through to ask for items.

Results showed numerous potential factors which would make a non-native speaking detainee vulnerable, not all of which are easily mitigated by a telephone interpreter at the booking-in procedure. Moreover, there were also factors which made the Custody Sergeant and organisation more vulnerable to negative outcomes, as much as the detainee. However, levels and consistency of agreement again varied between participants. A third of respondents didn't recognise linguistic vulnerability at all. Furthermore, these results must be viewed in the context of the other themes presented. Although two thirds acknowledged linguistic vulnerability, results from the preceding themes of 'competency discovery mechanisms' and 'competency threshold construction' showed the output to be a competency threshold which is too low. Thus, it seems that Custody Sergeants see linguistic vulnerability as only something that applies to those with no or very limited English. Just like the competency threshold and competency discovery mechanisms, the threshold it is aimed too low, and misses the middle competency non-native speakers for whom the decision is most relevant (Ewens *et al*, 2016). The underlying reason for this is seen to be a fourth theme, and one that cross-cuts the other three. This is a naivety to linguistic knowledge.

4.4 Linguistic naivety

When results were considered against the findings of the literature review, a further clear theme apparent and cross-cutting through the other themes was a naivety towards linguistics. Techniques or attitudes with no evidential base and seemingly harmful to any precise determination of interpreter need, providing false reassurance rather than concrete doubt, were the outcome result. Where the literature is suggestive of coercive and cynical approaches to interpreter determination and use by some police officers (e.g. Nakane, 2011; Wakefield *et al*, 2015), this theme is labelled a naivety, rather than a prejudice, because Custody Sergeants were unanimous in their commitment to ensuring fairness of process and care for all detainees. They simply lacked the accurate knowledge or guidance from any source to employ to both their, and the detainees' benefit. Linguistic naivety is thus a result of Custody Sergeants having to become linguists (Cotterill, 2000) to make the interpreter determination, without any professional linguistic training. With the dominance of psychology in police interviewing (Heydon, 2012; Oxburgh, 2010), this is not surprising, as little cross over with linguistics has taken place (Lai *et al*, 2014).

None of the interviewees felt they had received any training in interpreter need determination, and only 9.8% of respondents (4 of 42) said they had received such training. However, the police force in question provides no specific training in relation interpreter need identification. The nature of this training is unclear. The only interpreter training located by the literature review was a simplistic online video posted by Cambridgeshire Constabulary, unrelated to the specifics of interpreter need determination for a detainee. It may be that participants confused the nature of interpreter need training, with some other form of training. As Coon (2016) found, police officers often feel 'overkill' on diversity training. Nonetheless, this overall lack of training is consistent with the findings from Wakefield *et al* (2015), and all interviewees felt training would be hugely beneficial to the task and the role.

Interestingly, only 48.6% of respondents (18 of 42) said 'PACE Codes of Practice C gives me useful guidance to identify interpreter need within a detainee'. Thus, half of respondents acknowledged PACE's inadequacy to support them in this task, which can be seen as a similar weakness to PACE's failure to provide sufficient guidance in how to actually interview vulnerable suspects, only stating that there may be difficulties in conducting an interview with such suspects. Specific guidance must be sought elsewhere (O'Mahony *et al*, 2012). However, the result also indicates that half of respondents felt PACE did provide sufficient guidance, where it only lists self-assessment or interpreter facilitated self-assessment as potential tools, when in fact a myriad of tools are being employed at the custody desk. Most interviewees were not specifically familiar with the guidance on interpreter need identification, nor the wording around understanding for that matter. Thus, this result may reflect an unfamiliarity with the specifics of the PACE Codes of Practice C, or even a looser interpretation of its contents. This combined with a lack of training,

makes the presence of 'linguistic naivety' a logical by-product, and so its logical effect would be a negative influence upon the interpreter need determination.

48.8% of respondents (20 of 42) agreed they understood the psychological effects upon a language learner conversing in English. But at the same time, 74.3% of respondents (26 of 42) agreed 'it's normal for a non-native speaker to sometimes switch from English to their native language for the odd word or phrase, then back to English'. This action is known as 'code-switching' and is symptom of cognitive overload, where to reduce the cognitive load of dealing with two languages, the brain reverts a speaker to its native language temporarily (Cheng *et al*, 2005). None of the interviewees had considered the possibility of any cognitive overload effect on the part of the detainee, either within a dialogue or interview where an interpreter wasn't involved. And therefore, these officers were oblivious to the wider effects of cognitive overload beyond miscommunication, such as the ineffectiveness of interview techniques such as the reverse-order technique (Ewens *et al*, 2016), and the greater difficulty in lying (Cheng *et al*, 2005). Importantly overload is something Broady (2015) warns about in relation to setting tasks for language learners. And thus, code-switching is a clear example of a naivety, both as a tool to indicate interpreter need, but also as a symptom of cognitive stress. Strategic use of cognitive overload would certainly constitute linguistic coercion, which Pavlenko (2008) fears is replacing the physical coercion previously employed by police. The psychological concepts of suggestibility, acquiescence and compliance underlie the link between false confessions and miscarriages of justice (O'Mahony *et al*, 2012).

Cognitive processing could also be influencing factor to gratuitous concurrence (Cooke, 2002; Fryer *et al*, 2013; O'Mahony *et al*, 2012). A type of acquiescence, gratuitous concurrence is when a person freely agrees to propositions put to them in yes-no questions, regardless of their actual agreement, or even their understanding of the question (Eades, 2012). 40.5% of respondents (17 of 42) agreed with the statement, 'I find with a lot of people who speak limited English, you seem to get a response of 'yes' for some reason. Acquiescence is a common feature of vulnerable persons, so it is perhaps surprising so many respondents haven't experienced it. And of those interviewees that had experienced it, none understood what it was or why it happened. Whilst talking about acquiescence from an Aboriginal perspective, Eades also states it is "found in other situations around the world" (Eades, 2012: 479). Thus, this is a linguistic feature Custody Sergeants should be aware of, but don't seem to be, to both their and detainee's detriment.

A variety of examples have already been presented within previous themes that demonstrate linguistic naivety in the adopted practices and attitudes of Custody Sergeants in the interpreter determination. These examples included using response time and repetition requests as signals for need, and many feeling a few basic questions could provide them with an indication., Understanding seems to be assigned different meanings by different Custody

Sergeants, and the focus on information accuracy within the booking-in process varied. There was a high ignorance of code-switching, and acquiescence. Participants seemed to be confident in their own knowledge and ability to carry out the determination, but in reality, any such confidence is unfounded, and proves to reinforce their own naivety. A further example will be presented.

"...If their English is so poor that they can't say '(buzzes intercom) can I have some toilet paper please?', then I'll get the interpreter to tell them several words. And it will literally be like (moves hand to mouth) 'food', (pretends to drink from a cup) 'drink' or 'water', (shivers) 'cold'. Just really those couple of basic words, and I'll get them to repeat it. So, 'interpreter, can you ask them the word he needs to say if he is hungry?. Blaa, blaa, blaa". (ID 15)

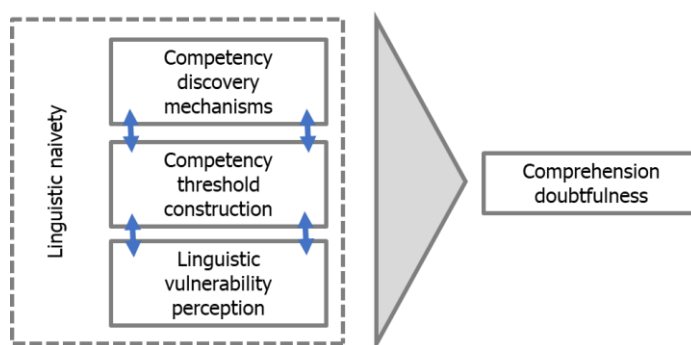
This Custody Officer describes the employment of a mini English lesson, verbally or in writing, to provide the non-native speaking detainee with some key nouns to use if they need something. The practice of repeating oral tasks is a method used to teach learners new words but such repetition to develop the cognitive schemas or 'frameworks' would far exceed what this Custody Sergeant suggests. There is also a need to consider the situational stressors which make the custody desk a far from ideal learning environment. It may be difficult for the detainee to remember a series of previously unfamiliar words and sounds, at that moment in time, let alone further along the detention, when they find they actually require something. Moreover, learners are often sensitive to the social setting and embarrassment because "what they feel they can communicate may appear trivial or ridiculous" (Broady, 2005: 58). This is a further example of a naïve practice to overcome the language barrier, which potentially adds additional difficulty and isolation to a non-native speaking detainee. 42.9% of respondents (18 of 42) agreed with the statement 'if their English is so poor that they can't ask for something (e.g. toilet paper, food, drink, blanket), I'll get the interpreter to tell them these words, so they can use them later-on'. Perhaps, it would make greater sense to use picture cards or posters to facilitate detainees' personal expression and communication. This is perhaps an example of Custody Sergeants 'muddling through', as police officers do on the street to overcome the language barrier (Culver, 2004). It is certainly not an action conducive to fairness of process, and again represents naivety on behalf of the Custody Sergeants applying it.

Linguistic naivety has been shown to be a theme originating from a lack of training and guidance, where to become linguists (Cotterill, 2000), participants are having to 'muddle through' (Culver, 2004). Linguistic naivety is a cross-cutting theme, logically influencing the 'competency discovery mechanisms', 'competency threshold construction', and 'perceptions of linguistic vulnerability'. Combined, these themes represent dimensions of an over-arching theme, or core concept, reflecting the interpreter need determination by the Custody Sergeant, which the researcher has labelled 'comprehension doubtfulness'.

4.5 Comprehension doubtfulness

Consistent with the strategy of employing the qualitative structured interview method to discover variance (Corbin *et al*, 2008), substantial variance was observed between interviewees in their general comments, approaches and viewpoints to interpreter need identification. Variance manifested itself in the themes of 'competency discovery mechanisms', 'competency threshold construction', 'perceptions of linguistic vulnerability' and 'linguistic naivety'. However, these themes served to generate the overall interpreter need determination, which presented itself in the form of a concept which the researcher has labelled 'comprehension doubtfulness'. See figure 1 below.

Figure 1: Conceptualisation of comprehension doubtfulness



The reason for naming this core concept 'comprehension doubtfulness' is based on two features. Various participants used the word 'doubt' in describing their decision to call for an interpreter to assist with the booking-in process, referring to a doubt in the detainee's sufficiency of understanding. All respondents agreed 'if there's any doubt, I'll get an interpreter'. This can be seen in the following examples:

"The important thing is, when you're booking someone in, they are able to understand what's going on. If there's any doubt in your mind as a custody officer that they cannot understand the legalities and that process, then you must, you have a duty, to contact an interpreter" (ID9).

"If it was clear to me at any stage that they didn't understand or there was any doubt in my mind, then I would ear on the side of caution and get an interpreter" (ID 12).

"If there's any doubt in my mind, I would use an interpreter". (ID 10)

And thus, being consistent with conceptual naming conventions described by Birks *et al*(2011), the name is grounded in language used by participants. Hence the use of 'doubt', where this doubt referred to the comprehension of the detainee. At the same time, this 'doubt' is an individual state of mind; a perception generated by oneself, and thus the suffix '-fulness' is

applied. As one participant explained in relation to the interpreter determination, “(its) my perception of their understanding of English based on their responses to questions/conversation with them” (QID 48).

The concept of ‘comprehension doubtfulness’ and its foundational themes (or dimensions) and items (sub-dimensions) was further explored through specific statistical analysis. Interestingly, following the conventions (see Miles *et al*, 2001) correlational analysis did not highlight any absence of relationships between variables. Exploratory correlational analysis showed a lack of correlation between variables, caused by a small sample size (n=42), where the sample size is inversely related to the standard error and the size of the p-value relating to the correlation coefficient (Field, 2013). Thus, the assumption that variables within the same dimension (or theme) should correlate, or not if not related Field, 2013; Miller *et al*, 2002), could not be applied.

Reliability analysis, as conducted by Dhimi *et al* (2017) in their study to develop a rapport building information sheet for interpreters, was also used. On the one hand, despite strong Cronbach’s Alpha results for total sub-dimension item lists before and after the removal of items, internal correlation was low for both lists of 70 items and 30 items respectively. On the other, reliability analysis respecting the multi-dimensionality of the model (Field, 2013) produced a sub-dimension item list for each dimension (see Appendix 4), with both good Cronbach’s Alphas (see table 1) and correlations greater than .3 (as suggested by Field, 2013).

Table 1: Development of theorised dimensions by internal consistency reliability analysis

	Initial reliability analysis		Final reliability analysis	
	Alpha	Items	Alpha	Items
Competency discovery mechanisms	.622	21	.731	7
Competency threshold construction	.274	16	.686	5
Linguistic vulnerability perception	.756	16	.860	11
Linguistic naivety	.737	11	.768	7

Despite these reliable and correlating lists, sub-items didn’t aggregate to the total of the ‘comprehension doubtfulness’, thus inferring that ‘comprehension doubtfulness’ cannot be represented by a single scale of variables, rather by a collection of different scales of variables. Logically the dimensions (or themes) represent quite different concepts, although possibly related at times, and so this finding is perhaps not unexpected.

A product of the reliability analysis is the four scales comprising sub-dimension item lists (table 2 above). However, interestingly two of the scales, ‘competency discovery mechanisms’

and 'competency threshold construction', after reducing the number of items through reliability analysis, now represent purely 'harmful' scales. I.e. the items they contain can be shown to be potentially detrimental to any accurate interpreter need determination. Perhaps these harmful orientations are further emphasis of the strength of the underlying linguistic naivety within these two key interpreter determination themes in particular, despite a commitment to fairness and safeguarding across all participants, as previously shown.

61.9% of respondents (26 of 42) felt the interpreter need determination was subjective. However, a key finding from this study relates to the variance in 'comprehension doubtfulness' and its component themes, leading to inconsistency. One interviewee called it "the greyest of grey areas" (ID 2). Indeed, the participants were aware themselves of a lack of procedural uniformity, in both approach and viewpoints to interpreter need identification. Two former Custody Sergeants said:

"...how you might assess it and how I might assess it might be completely different wouldn't it?" (ID12)

"...every custody sergeant works differently, and will always have a different idea about risk, and will always have a different assessment on people". (ID9)

Two participants even recalled examples where they had disagreed with another Custody Sergeant's assessment:

"anyone is open to change their mind at any time, that's my rule of thumb. And Custody Sergeants often do. I often say no, I think this person does need an interpreter, but it's been flagged up as no" (ID10).

"I've been privy to sitting there with a colleague, watching them book someone in, thinking, actually I don't agree with that risk assessment. I don't agree with the care regime that you've put that person on. We have not had an argument about it, (but) a dialogue about it. Sometimes you'll compromise, sometimes we haven't (ID9).

Yet it remains the responsibility of the duty Custody Sergeant to make the determination and satisfy their own judgement. However, a serious consequence of variance in 'comprehension doubtfulness' and its constituent themes will be an inconsistent provision to detainees. Particularly for those non-native speaking detainees in the less obvious, middle competency bracket, provision for a detainee could be dependent upon the specific Custody Sergeant on duty on arrival, and their discretionary approaches and attitudes. 'Linguistic naivety' means respondents unwittingly position their understanding threshold too low, despite many trying to implement a 100% understanding policy. Assessments of competency and vulnerability appeared

to reference this threshold, thus creating the situation where a limited speaking foreign national detainee is potentially even more vulnerable to their own linguistic vulnerability. Interpreter determination is thus a lottery for those with less obvious needs.

Results utilising case study examples from international case studies (Brière, 1978; Gibbons, 1996; Pavlenko, 2008; Valdes, 1990) demonstrate that where interpreter need is obvious, all respondents correctly identified the requirement. For example, where a Thai national on a student VISA demonstrated pronunciation and difficulties answering questions (Brière, 1978). Yet in the examples of a limited schooled Tongan Australian using simple English vocabulary and structures (Gibbons, 1996) and a young Polish male partly schooled in the UK (based on Valdes, 1990), only 73.8% and 64.3% of respondents respectively, correctly identified the interpreter need. Of those that didn't, a number identified as current Custody Sergeants or those who have recently guested as a Custody Sergeant, and thus making these results relevant to police custody and detainees right now. In the final example relating to a Russian university exchange student with previous time spent in the country (Pavlenko, 2008), only 2 of the 42 respondents (4.8%) correctly identified the interpreter requirement. At court, it was identified by an expert witness after thorough analysis of her language competency, that this murder suspect had not knowingly waived her rights, and had not understood them fully. These discrepancies demonstrate the potential weaknesses in the current provision caused by 'linguistic naivety' upon the independent variables to 'comprehension doubtfulness'. The current literature reports no miscarriages of justice through interviewing in England and Wales in the last fifteen years (Walsh *et al*, 2010), yet all four examples resulted from challenges made by defences at court, and so the potential for procedural unfairness is demonstrated by these results. Thus, the relevance to procedural justice theory becomes incredibly relevant: This was also explored as part of this study, and forms a supplementary but equally interesting theme within which to place the results of this study.

4.6 Naivety and need of procedural justice

This study was theoretically positioned to procedural justice theory. So, where “policing requires citizen co-operation, complicity and a will to obey the law in order to be effective” (Hough, 2013: 4), “a little bit of being nice goes a long way” (Mazerolle et al, 2013: 35-36). Thus, a reasonable line of enquiry to make was about the applicability of procedural justice theory to improving perceptions of policing amongst minority communities, particularly amongst those who are non-native speaking.

Results suggest a lack of knowledge in relation to procedural justice theory amongst participants. Only 26.2% of respondents (11 of 42) said they had heard of the procedural justice theory, of which 10 went on to explain it. In the researcher’s opinion, only one respondent (QID41) gave a reasonable description, stating:

“studies strongly indicate that the police will be more likely to obtain cooperation with people when they are treated with dignity and respect, when laws and actions are perceived to be just and where the police are not treating people as a statistic. Even where police are using laws that people do not believe are ‘just’, the use of procedural justice can still assist with cooperation”. (QID 41)

3 other participants gave incomplete answers, such as “how the police interact helps form the public opinion of them”, “it is fairness within the process”, and “fairness and transparency in all legal processes”. Whilst acknowledging treatment and process, these descriptions lacked the subsequent effect of perceived legitimacy and related cooperation. A number incorrectly believed it related to fairness of process to ensure cases were not undermined at court. This lack of awareness of procedural justice theory is consistent with Bradford’s observation that “police seem all too often to concentrate on ‘take me to your leader’ efforts while ignoring the fact that they are in daily contact with people the leader is meant to represent” (Bradford, 2014: 39). Yet within the custody suite, many interviewees recognised the utility of ‘soft power’ in the custody environment, which is an expression of procedural justice theory within the custody environment (Skinns *et al*, 2017). As one respondent said:

“the first impression inside the custody suite is...very important. And if I can get that person to understand...I’m just here...as a Sergeant to look after them. Then that’s a big step forward” (ID5).

Another made the following analogy:

“Well, if you keep poking a dog in a cage with a stick, it’s getting angrier, and angrier...and when you let it out, it’s going to come and bite you...But if you look after that person, tell them what’s going on throughout, they’re going to be more

cooperative...throughout the custody process, and possibly means we might get an early guilty plea...Ultimately all that matters is if we do it properly and treat everyone fairly regardless of where they're from, what they've done, or alleged to have done...then...it's not going to cause us any problems" (ID15).

Despite this underlying realisation of the value of fair and positive treatment, and examples of non-native speakers possessing negative heritage perceptions of police, any further-reaching or longer-lasting effect of fair treatment was rarely expressed by participants. Only after further consideration and discussion did one participant comment:

"when they leave custody, 'how was it?'. 'Oh, I was thirsty, I was hungry, I couldn't get any food because I couldn't ask for it'. That goes back. They all speak. '...they treat us like robots I guess'...so the community sees...how we treat them (to) be inhumane" (ID14).

Some prompting was required for this participant to see Robert's point of view, where in relation to police interviews with non-native speaking detainees, he emphasises "what police do or not do during an interview is...a crucial determinant of a suspect's perception and potential for cooperation", but is also the basis of the experience that suspects feed back to their community (Roberts, 2010: 128).

Interestingly, and consistent with a lack of awareness of procedural justice theory, when asked about how to improve community engagement with minority communities, particularly non-native speaking persons, all interviewees suggested community engagement through community leaders. Thus, repeating Bradford's 'take me to your leader' approach (Bradford, 2014: 39). As one interviewee responded:

"...through the Community Liaison Officers, we used to have staff going to...community halls...meeting regularly with...community leaders and people that are quite prominent within that community..." (ID 1).

But as Chan points out, "what if the community consists of 105 ethnic groups with different languages, cultural traditions and policing needs?" (Chan, 1995: 1). Hence, this same participant acknowledged the limited capabilities of having only one dedicated officer:

"...locally, there would be your Community Liaison Officers. I think we've not gone down to one...so there is not a lot due to the restraints placed upon staffing...So, it's having that point of contact...but again, its having the time" (ID 1).

Moreover, many interviewees, often as former Neighbourhood Officers, felt strongly that neighbourhood policing overall did not deliver the same engagement as it once did, so minority

engagement relied heavily upon this single local Community Liaison Officer. One respondent said:

"I think we've lost community policing. I think if you spoke to any person out on the street, from whatever nationality, whatever background, the one thing they want (is) 'I want to see my bobby on the beat', 'I want to see more community policing'. You don't see it any more. I think it's very sad, and I think it's very much to our detriment" (QID4).

Therefore, the need, appropriateness, and perhaps innovation of utilising procedural justice theory to policing procedures can be seen, where the College of Policing in the United Kingdom advocate its use in policing strategies (Myhill *et al*, 2011). Respondents seemingly lacked the knowledge to extend the theoretical application of procedural justice further into the wider policed-environment, and often relied upon what they were familiar with: normative legitimacy through process adherence, and empirical legitimacy through community leader engagement. As one interviewee expressed through an emphasis on normative legitimacy, overlooking the empirical legitimacy:

"the procedures and protocols that we have in place are fit for purpose...It's about bespoke decisions in relation to what Custody Sergeants think applicable and what isn't. It's very much the individual's choice and own risk assessment whether they want to get an interpreter or not. But I think most Custody Sergeants ear on the side of caution because there's huge risk around having someone in custody. So, generally I think it's pretty good, particularly here, from my experience." (ID 9)

The applicability of procedural justice to minority engagement efforts sits within a perception amongst interviewees of increasing volumes of foreign nationals coming into contact with police as perpetrators or suspects. The majority of whom are Eastern European in heritage, and who have varying perceptions of policing legitimacy founded within their country of origin. This finding is consistent with Stansfield, that "criminal justice statistics in the United Kingdom showed increases in arrests and incarceration among Eastern Europeans over the past 5 years" (Stansfield, 2016: 1432). Although respondents did give specific examples of detainees from North Africa and China amongst other locations. One interviewee commented in relation to demographic change:

"Massively changed since I joined, so '98...In the first few years foreign nationals didn't really play a massive part in policing. It was a lot of local stuff. As the dynamics have changed, and...the immigration statuses have changed, with refugees and illegal immigrants coming into the country and whatever, and becoming British citizens. The make-up and the demographics of the community have changed...over the last...5 years

at least, I would say....a quarter if not more of all our calls are involving foreign nationals now. In custody that's really prevalent...interpreters have become an issue" (ID 1). Thus, from the Custody Sergeant's perspective, with more non-native speaking people being arrested as suspects, the requirement to assess for interpreter need will have grown also. Thus, there are more opportunities for erroneous determinations to be made, more unfair processes to be completed, and more negative experiences for detainees to cascade out. And this is within a police-citizen engagement stream focussed on community leaders and groups, and where the footprint of neighbourhood policing has been severely reduced. More than ever, procedural justice application could benefit policing, particularly for police-minority relations.

Section 5 – Discussion and concluding remarks

The main purpose of this paper was to explore how Custody Sergeants determine the need for an interpreter within the booking-in process of a police suspect detention, and secondly, identify the tools officers drew upon to complete this determination. Though a grounded theory approach using exploratory semi-structured interviews and an e-questionnaire, themes were identified. The researcher conceptualised these themes within the core concept of 'comprehension doubtfulness': a state of mind felt by the Custody Sergeant evoking the action to call for an interpreter (by telephone) to assist in the booking-in process.

The key finding of this study related to variance in this concept's formulation between participating Custody Sergeants, where different tools were being used to assess for different thresholds of English, with different perceptions of linguistic vulnerability being displayed, and all influenced by a linguistic naivety. The second key finding relates to the applicability of procedural justice theory to the interpreter need determination, where minority community relations are ripe for increased support through lack of resources and an archaic "take me to your leader approach" (Bradford, 2014: 39). Although criticisms of non-representativeness, sample size, and sampling bias may be made, these are dwarfed by the practical implications of the findings: non-native speaking linguistically vulnerable detainees, particularly those in middle-English competency levels, face a lottery in the identification of interpreter need, making them more vulnerable to their underlying linguistic vulnerability. Procedural unfairness is therefore apparent, putting the procedure, case and wider perceptions of police legitimacy at risk, rather than strengthening them.

Methodologically, there is no reason in this instance, as is often the case (Berdie *et al*, 1986), to believe non-respondents differed from respondents on dimensions pertaining to 'comprehension doubtfulness', where suggested reasons for non-participation obtained from anecdotal feedback were a lack of free time, the length of the script and a possible general apathy to research participation or the subject area. Indeed, the example results published by Wakefield *et al* (2015) reflected similar interpreter determining tools to those collected through this study. However, even if non-respondents did not vary, and were heterogeneous across the dimensions of 'comprehension doubtfulness', the results indicate a considerable body of Custody Sergeants (n=42) responsible for delivering paragraph 3.5cii of PACE Codes of Practice C (the interpreter need determination in custody) who were not. Hence variation in 'comprehension doubtfulness' is a highly relevant finding irrespective of its sampling limitations, exemplifying the value in data richness (Westmarland, 2011), over any preoccupation with sample size and representativeness, such as that expressed by Costello *et al* (2005).

As in the case of police officers interpreting for detainees, where they fail to take a neutral position as an interpreter should, the Custody Sergeant too can become a "wolf in sheep's

clothing” (Berk-Seligson, 2004: 142) from the detainee’s perspective. Undoubtedly Custody Sergeants wanted to protect the rights of detainees and ensure their care, but in their naivety and discretion, variance in approach will clearly lead to detainees being incorrectly diagnosed as not requiring an interpreter. Failure to correctly identify interpreter need within case study examples, as argued by expert witnesses (Gibbons, 1996; Pavlenko, 2008; Valdes, 1990) demonstrates the weakness in the current unsupported discretionary process. Where one detainee will receive interpreter support, another similar detainee assessed by another Custody Sergeant will not, particularly where the detainee possesses English of middle competency, and the assessment is more difficult. Required competency levels of ‘required English’ should not vary, but yet they varied in both the amount and depth between Custody Sergeants. Results add further weight to Young’s calls for Custody Sergeants to develop a greater awareness about intellectual vulnerabilities presenting in detainees, which is essential to safeguarding the interview process (Young, 2013). The results also highlight the desperate need for linguists to apply their expertise not just on the interview stage, but on the booking-in phase of detention too. Orally presented information (like the booking-in process) can be assessed through an analysis of the materials themselves (Rogers, 1962: cited by Brière, 1978), so Custody Sergeants could then be clear on the English competency requirement they need to be assessing to.

Results showed participants lacked any training in relation to interpreter need identification, and moreover, exhibited many linguistic naiveties, including word frequency, cognitive overload and acquiescence. Nevertheless, interviewees all saw huge value in receiving linguistic orientated training to help with interpreter need identification, and also to assist with interviewing non-native speaking suspects, either through an interpreter or without. Training for those conducting the role of Custody Sergeant is therefore a recommendation from these results. With the unanimous dedication to detainee rights protection and care, results suggest that the adverse effect of training reported by (Eades, 2012), where it was used a coercive tool by prosecutors, would be an unlikely consequence. Moreover, the conceptualised framework of ‘comprehension doubtfulness’ provides specific attitude statements. Particularly for the themes of ‘competency discovery mechanisms’ and ‘competency threshold construction’ which comprised of harmful attitudes, these could be used to inform of misbeliefs within Custody Sergeants as recommended by Akehurst *et al* (1996), as opposed to specific indicators to look out for. Comprehension doubtfulness is thus more than just an awareness tool, which would undoubtedly be a good first step to changing beliefs (Valdes, 1990). Ideally, a repository of non-verbal behaviours would support Custody Sergeant knowledge, where Castillo *et al* (2012) found specific non-verbal cross-cultural information, when provided, were used to account for norm-inconsistent behaviours. Potentially similar to the deception work conducted by The Global Deception Research Team (2006), this would be a large piece of further research. But in the short-term, ‘comprehension doubtfulness’ provides opportunities for harmful attitudes to be challenged, and improvements in interpreter determination to be made.

Evidently, a further research need is the development of a supportive and practically administrated tool for Custody Sergeants to use when making interpreter determinations. The variation of 'comprehension doubtfulness' and the inconsistency of determinations, particularly for those middle English competency detainees, make this a priority. But in the absence of a specific tool, a specific difficulty assessment for the booking-in process, or training programme, the usefulness of the Aboriginal Interpreter Service's (2013) guidance, specifically the consideration "if you were facing charges in a foreign, non-English speaking country and had to rely on your client/witness to interpret for you into English, would you be happy to proceed?" (Aboriginal Interpreter Service, 2013: 1), is obvious. It is recommended that this consideration be a key message for Custody Sergeants and within the Custody Sergeant training. This self-reflection question, which makes the interpreter determination more personal and more tangible than PACE should guide the Custody Sergeant towards a higher competency threshold (where Cooke (2002) states a minimum level for a trainee interpreter is 'vocational level', and thus relatively advanced). The researcher this deeper reflection on the part of the Custody Sergeant, in seeing the world through 'the detainee's shoes' is essentially the application of Kumaravadivelu's (2008) 'cultural realism' for language learners, but for police officers. The emphasis is on understanding another's cultural identity to deepen understanding, rather than relying on the superficial indicators.

Non-native speakers of English are vulnerable due to linguistic factors (Delgado *et al*, 2016: 27). Many participants recognised it, although usually only at lower competency levels of English. And thus, overall, respondents showed mixed opinions in relation linguistic vulnerability, and where vulnerability by language existed towards the lower competency levels, with much naivety expressed towards linguistics. After all, language barriers in custody for non-native speaking detainees hinder the ability to cope, communicate and receive appropriate services, as well as impede the risk assessment process (Shepherd, 2016). This naivety is clearly a barrier for minorities to have linguistic needs addressed, and as Biber (2010) observed, why it is so difficult to prove the difficulties of coming from a minority community. Thus, the interpreter determination itself is not only a method by which 'the field' (i.e. the non-native speaking public) can be positively influenced (Chan, 1996), but in a wider mentality change to identifying and responding to language needs which are relevant to these citizens and communities.

What is required is recognition of linguistic vulnerability within England and Wales, where a broader sense of vulnerability is adopted. Labels of vulnerability are constrained by narrow statutory definitions, but there are other factors to be considered (O'Mahony *et al*, 2012). The findings of this research demonstrate that such additional factors, at least in relation to linguistic vulnerability, are certainly being faced by detainees in this force. Much to the disadvantage of non-native speaking detainees, these findings are consistent with an absence of the interpreter issue with contemporary psychology textbooks (Powell *et al*, 2003), the discipline which has

dominated police interviewing (Lai *et al*, 2014), and so “largely overlooked intercultural communication difficulties” (Spencer-Rodgers *et al*, 2002: 611). However, greater recognition will only take place either through key gate-keepers acknowledging the issue the research, and drawing it into policy. Or again, through strategic gate-keepers, but reactively after criticism through court or some other audit process.

In view of the findings of this study, where non-native speaking detainees are being assessed for interpreter need through a highly inconsistent and often invalid procedures, the recent comments in relation to linguistic vulnerability by the Deputy Commissioner for the Metropolitan Police, Craig Mackey, must be celebrated. The findings certainly synchronise well. In a recent press release in relation to prioritising face to face visits to victims of crime, he said “vulnerability can manifest itself in a number of ways: people with learning difficulties, a whole range of things, some people for whom English isn’t a first language” (Daily Mail online, published 25th August 2017, (Accessed 26th August 2017)). Irrespective of the ignorant sensationalist reaction in the media and internet message boards, this was a watershed moment: A public acknowledgement of linguistic vulnerability by a senior British police officer, where otherwise it has not been formerly recognised before. More need to follow, because where vulnerability is neither acknowledged, or at least across the spectrum of second language competency, the risk to accurate information exchange, a fair process, and to community relationships is great. After all, the central role of culture and language is now recognised by legal systems in Australia (Eades, 2012).

On the other hand, the findings of this study, particularly those which highlight harmful practices and variance, whilst unintentional they are equally indefensible, highlight what could be waiting to be found when greater scrutiny is placed onto this area of policing. Walsh *et al* (2010) report no miscarriages of justice in England and Wales over the last fifteen years as a result of interviewing, and since the Iqbal Bergum case of 1985 (Morris, 1999), the author has only identified R v Belo (Court of Appeal, 2007) as the only additional interpreter related case. Both relate to the language of the interpretation, rather than any interpreter determination. Results suggest areas on which non-native speaking case integrity could be questioned by defences. And thus, Her Majesty’s Inspectorate of Constabularies, whilst focussing on custody care, vulnerability identification and rights provision, only do so superficially for interpreter need. They check only that the statutory provision exists (e.g. HMIC Hampshire, 2017, HMIC Sussex, 2017, HMIC West Midlands, 2017), and whilst they report on limited diversity awareness, they should do more to target this highly specialised but highly influential cog in the investigative procedural machine.

For non-native speaking detainees, inhibited dialogue or lack of full understanding, added cognitive load or stress, feelings of isolation and inhibited expression of rights or needs could all be perceived to be a result of a negative policing style (Bradford, 2014) when a

determination not to provide an interpreter is erroneously made. The implications reverberate beyond compliance and 'soft' power acceptance within the custody suite, but further into the community outside of the cell walls. However, this research provides evidence to propose the application of greater procedural fairness to non-native speaking detainees in the form of a more evidenced and consistent interpreter determination. A number of simple recommendations, such as focussed awareness training, compliance checking, as well as further research streams, have been identified to make the interpreter determination a positive perception tool for police. Procedural justice only takes a few simple steps to yield benefits (Roberts, 2011), and anyone can do it, where it can positively affect not only the target individual, but their friends, family, and even co-workers (Bradford, 2011). Where Mazzerolle *et al* state "a little bit of being nice goes a long way" (Mazzerolle *et al*, 2013: 35-36), the results suggest Custody Sergeants are not prejudicial, rather uninformed and lacking the relevant knowledge and support. The researcher makes the comparison with the vogue theme in policing currently, mental health, in which Custody Sergeants are trying to be linguists (Cotterill, 2000), but as with officers working on mental health cases, they lack specialist knowledge (Massey, 2016). Equally, with limited linguistic cross-pollination (Lai *et al*, 2014), findings highlight again why linguistic specialists need to be more involved in decisions relating to the procedure design for non-native speaking detainees (Brière, 1978).

Remedial action to improve and standardise interpreter determination could improve perceptions of policing legitimacy amongst minority non-native speaking communities, where neighbourhood policing's footprint is far reduced and Community Liaison Officers are limited to top down engagement without hope of reaching the breadth and depth of an increasingly diverse policed population. Complementing the procedural justice influence, the interpreter determination offers an opportunity to change the field not just the habitat (Chan, 1996) where a change is based on and can deliver against a community need, rather than an organisational policing change without any obvious community effect. However, the researcher speculates that this change in field is not guaranteed by statutory provision alone, where findings suggest that the normative legitimacy based on the statutory provision of an interpreter (PACE Codes of Practice C 3.5cii) is a fallacy. The variance in interpreter provision means that where the statutory provision is supposed to demonstrate 'shared norms', it is superficial, where those giving the provision (i.e. the Custody Sergeants) do not understand the full nature of the limitations experienced by non-native speakers. PACE Codes of Practice C in relation to interpreter need is another example of an institution changing the 'habitus' but not the 'field', consequently, simplistic and discretionary interpreter provision is a brittle source of policing legitimacy. But the researcher further speculates that accurate interpreter determination and provision can be bolster normative legitimacy and have a strong impact on empirical legitimacy also.

Reiner *et al* (2008) encouraged more research into areas of routine policing from which policy could be based, with Williams *et al* (2016) advocating evidence based research which

explains what to do and why things should be done differently, because many of the basic aspects of policing such as “the way day-to-day decisions about the use of powers are made” are based on out of date research conducted in the early 1980s (Reiner *et al*, 2008: 363). ‘Comprehension doubtfulness’ as a conceptual framework provides a deeper description of the discretionary interpreter determination (Chan, 1995) from the perspective of the agent in the Custody Sergeant agent, rather than the ideal proficiency/demand dichotomies of Cooke (2002) and Valdes (1990). It highlights harmful attitudes to be addressed, training needs, areas for further research, but significantly, means to improve normative and empirical legitimacy in non-native speaking minority communities. In this context, the concept of ‘comprehension doubtfulness’ and the findings of this study are useful original additions to the literature base, focussing on a specific process element hidden from public view in the custody suite, not subject to any objective challenge or oversight by an auditable body. It responds to and supports Egharevba *et al*’s call for research to “take into consideration immigrants’ and minorities’ disadvantages at the individual level as well as the ambiguous practices and inconsistencies in the public policies and attitude toward immigrants in general...” (Egharevba *et al*, 2013: 268). The findings of this study can make a difference to the real world, promoting better communication between police and the public, and increased likelihood of understanding, and can be described as “applied linguistics in action” (Gibbons, 2001: 463). And in view of the debate sparked by the largest force in England and Wales, the Metropolitan Police Service, it is both provocative and justified.

Custody Sergeants are not linguists. They cannot be. Neither are interpreters the panacea to communication problem (Cooke, 2002: 29). Nonetheless, new communities’ needs should be identified and addressed, with new methods to engage with them sought (Martin *et al*, 2016). Interpreter need is perhaps one of the most obvious needs of non-native speakers, and whilst statutory provision promises to give normative legitimacy, this study has shown its clear weakness and potential lack of empirical legitimacy. But through improved provision, both normative and empirical legitimacy can be improved. After all, justice shouldn’t be “lost in translation” (Ackermann, 2010: 398).

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Appendix 1: Interviewee information sheet

Researcher name: Matthew Hollands

Tel. *****/email:****.

Research project: An exploration of police identification of interpreter need amongst limited English speaking suspects brought into police custody.

Background

- This research project explores the decision to provide an interpreter to an offender, with the view to ensuring offender's rights are properly respected, quality of evidence maximised, and perceptions of police improved.

Eligibility

- Participants must work in police custody at ****** police station as either a Sergeant or Detention officer.

Participants are required to:

- Participants will be asked a series of questions and engage in a dialogue about the topic of interpreters for detainees coming into police custody.

Feedback

- All participants will be provided with a copy of their interview transcript to validate.

Confidentiality

- All data obtained from interview transcripts will be confidential.
- Participants' identities will not be disclosed under any circumstance.
- All data will be stored anonymously.
- The researcher is bound by the police code of ethics, thus any disclosure of deliberate violation will be anonymously reported by the researcher: the source's (interviewee's) identity will not be disclosed under any circumstance.

Deciding whether to participate

- Before deciding to participate, if you have any questions, concerns or requirements please do not hesitate to contact me.
- Should you decide to participate, you do not have to answer a question if you do not want to, and you would be free to leave at any time without having to give a reason.

Questions

- If you have any further questions, you can either ask them before participating or afterwards, by email or telephone (**see above**)

Dissemination of results

- It is likely findings will be fed back into the organisation by way of a briefing paper.
- All participants will be individually provided with a copy (via internal email) when drafted.
- Further wider publication of findings, e.g. by way of online publication or conference paper may also take place.

Appendix 2: Interview schedule



Interview schedule

Research project: An exploration of police identification of interpreter need within limited English speaking suspects brought into police custody.

Provide information sheet.

Complete consent form.

Interview:

How would you describe the trend of foreign nationals who don't speak English as a first language coming into police custody, in terms of volume, nationality, language and the types of offence they are arrested for? (Discuss/probe)

Have you had any training or guidance in assessing language competency? (What? Feedback?)

If you were booking a foreign national into custody:

- How would you identify their native language?
- How would you identify whether they spoke any English?
- How would you assess their level of English?
- How would you assess if their English was sufficient to understand their rights and proceed without an interpreter?
- How competent in English should a detainee be not to require an interpreter?

Why do you use the ques/methods you mentioned?

Do you know what PACE Code C suggests officers should use to assess language level?
-Could you summarise it for me?

Have you ever spoken about the issue of language identification and assessment before?
(To who, conversation content, outcome?)

Do you think it is important for detainees to understand their rights and what is happening? (And why?)

- What does understanding mean for you?
- How do you check/know they understand?
- Do you think it is easy for someone to assess their own level of English? (Why?)
- Do you think being arrested before enables a detainee to understand more? (Why different?)

Are there any other advantages or disadvantages to using an interpreter (to either police or detainee) other than to facilitate a conversation?

Do you think any conflicts of interest exist when deciding to provide an interpreter?

Do you think speaking English as second language could make a detainee vulnerable? Why?

Are there risks to interviewing a detainee who doesn't have sufficient command of English, without an interpreter?

From the force's perspective, do you think dealing with foreign national detainees is a challenge met, or one for the future? (Explain)

And lastly, how do you think police can improve perceptions of policing amongst immigrant communities, particularly those who don't speak English as a first language? How?

Do you have anything further you would like to add or make comment upon in relation to any of the themes we have spoken about today?

Appendix 3: Questionnaire instrument

Link will be emailed (blind copied to sample). Message will read:

Subject: Custody survey invitation

Hi,

For my MSc by Research with Canterbury Christ Church University, I'm carrying out a piece of research around Custody Sergeants in **** and how they identify interpreter need amongst detainees.

I have already completed a number of in-depth interviews with custody trained sergeants at ****, and this short survey looks to validate that work and progress it further. Your support and input on this would be greatly appreciated.

This survey is open to any officer who has completed the custody sergeant training, or is due to soon, and would therefore be eligible to 'guest' or be deployed into custody if needed.

This research has been sanctioned by the Chief Constable and Central Custody. It is funded and being completed independently of the force. Please contact Matt Hollands if you have any questions or would like to talk about the research further (tel. ****).

Responses will be anonymous and treated confidentially.

Welcome page will read:

A set of 9 in-depth interviews provided initial insight into custody sergeants' assessment practices to identify interpreter need within detainees at the booking-in desk. This survey looks to validate these findings.

This survey is anonymous. Responses cannot be traced to specific terminals or individuals. Demographics questions are not asked.

Respondents will be asked to provide their consent for the data to be used in this research and any subsequent research.

Screen 1:

Thinking generally about assessing interpreter need for a detainee who is a limited or non-native speaker of English, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
I think it's right they should have the opportunity to access an interpreter should they need it.					
Just because English isn't their first language, it doesn't mean they need an interpreter.					
If there's any doubt, I'll get an interpreter.					
The assessment decision (for an interpreter) is very subjective.					
Detainees who are limited or non-native speakers of English are vulnerable because of the language barrier they face.					

How would you, as the custody sergeant, **decide** whether a detainee who was a limited or non-native speaker of English required an interpreter for the booking-in process? Free text box

Screen 2:

Thinking specifically about the **methods, tools, and indicators** you might use to make the assessment for an interpreter to be used in the booking-in process, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
It's probably easier for the detainee to assess their competency in English, than it is for me to do it.					
I'll just ask them 'can you speak English'?					
If someone says 'no speak English', then you've got to be guided by them to some extent, irrespective of what your thoughts might be, as to whether they are trying to stall the inevitable.					
Within a few very basic questions (name, address), before you get into the booking-in procedure, it's going to become apparent whether they're understanding.					
Non-verbal communications (a shrug of the shoulders, a confused facial expression) can often indicate that they don't understand.					
Sometimes they'll ask you to repeat certain parts of a phrase, which can be a sign.					
If they understand the word interpreter, then they are capable of working out whether they need one or not.					
I'd check the detainee's previous custody records and see whether an interpreter was used before.					
You've got to get the opinions of the arresting officers who have been at the scene and spent time with the detainee beforehand.					
Using a telephone interpreter, you can ascertain the level of English the person speaks by the interpreter asking that question in their native language.					
You can ask them about the meaning of certain words, even basic food and drink, to see if they can understand English.					
Sometimes, when you ask for an explanation, it's quite clear that the explanation they're giving you doesn't match the question you've asked.					
You can see it quite often in the response time, if someone is having to think long and hard about what you are saying.					

Screen 3:

Still thinking about the **methods, tools, and indicators** you might use to make that assessment for an interpreter to be used in the booking-in process, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
I would ask them to read the notice of the rights and entitlements, just to see if they have got a grasp of the English language.					
I would be reassured if the detainee's associates or family have told police he speaks English.					
You can gauge a lot about somebody's understanding from the conversation that you have with them.					
You've only got to look at the way they say the word 'mate'. You know they have spent time in the local area and picked up the language, and are actually pretty fluent in English.					

They may have been in the UK for a certain amount of time, which would indicate a high competency of English.					
If they can answer in a structured way, that I understand, then I'm satisfied they don't need an interpreter, because I'm leading them through the booking-in process.					
If their solicitor says they're not understanding, even though we (the custody staff) were satisfied, I would get an interpreter to go through the process again.					
I think the nature of the offence comes into it as well, for example, a shoplifting compared to a more complex investigation.					
You might ask them to write their name and address down, to see whether their handwriting is such that they can probably read and write English perfectly well.					
If I've got an interpreter, and the detainee starts responding before the translation, I'd think the detainee didn't need an interpreter after all.					

Screen 4:

And thinking specifically about a **limited or non-native speaking detainee's level of understanding**, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Many native English people wouldn't fully understand the booking-in process, their rights and entitlements.					
You do get a few foreign nationals that choose not to speak English, thinking that will aid them in not being prosecuted.					
I think once they know what happens the first time, coming back into custody a second, third, fourth time, makes understanding easier.					
There's no point signing a piece of paper to confirm receipt of their rights and entitlements, if they haven't actually understood what we've discussed.					
They have to understand the offence they've been arrested for, because if they don't, that offence cannot be thoroughly investigated.					
Understanding physical illness or medication questions is far more important than understanding that there is CCTV recording throughout custody and that they will be prosecuted if they damage the cells.					
If they understand 85% of what I'm saying, including the most important parts, I can be satisfied they don't need an interpreter.					
It might be that they've been in the UK for a certain amount of time or they've had some sort of education to learn English to a sufficient standard, to be able to hold a conversation and understand everything perfectly well.					
If they're understanding 90% of it, we can get by without an interpreter.					
It's normal for a non-native speaker to switch from English to their native language for the odd word or phrase, then back to English again.					
It's very easy to assume that because somebody speaks English, they understand the nuances of some of the language that we're using, especially with rights and interviewing.					
If you're going 'I think they'll get by'. You are already doubting their total capacity to understand.					
I'm looking for somebody to actually understand what the words and phrases mean, not just recognise them.					
If no interpreter need is identified, the assumption is that the detainee is understanding everything (fully)					

If an interpreter isn't to be used, how much of the dialogue within the booking-in process would a limited or non-native speaking detainee need to understand? [Free text box](#)

Screen 5:

And thinking specifically about **the importance of correctly identifying** interpreter need within a limited or non-native speaking detainee, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
From a custody perspective it's all about risk and harm. If you can't work out who they are, where they're from, and then all the risk assessment questions...you're in trouble.					
If they don't fully understand their rights, then they're vulnerable from that perspective.					
I do not want this person to die whilst they're with me. So if I need to spend 45 minutes to an hour going through a risk assessment, I will.					
Every person who comes through the door to custody is potentially vulnerable.					
Detainees who are limited or non-native speakers of English feel a sense of vulnerability because they lack the understanding of what is going on around them.					
It's very reassuring for a non-native speaking detainee when there's somebody that they can talk to in their own language.					
They may be doubly vulnerable if they are intoxicated and can't speak English very well.					
Waiting for an interpreter slows up the system for the detainee, meaning they're liable to be in custody longer than an English speaking person.					
If they don't speak English as a first language, the pressure on them is more than it would be if they were English speaking.					
If the detainee doesn't understand their rights, then you're looking at losing the investigation later down the line.					
Some interpreters are really difficult to get hold of.					
When giving a fairly wordy or complex explanation or question, I will finish off by summing up in simplified language.					
A lot of people refuse the print outs of their rights and entitlements, but we give them out in the native languages anyway.					
As custody sergeant it's one of my responsibilities to make sure they've understood.					
There's a risk to the reputation of the force if we make the wrong assessment and a case is lost later-on, because a suspect didn't understand.					
With an interpreter involved, I'm not really in control of the conversation.					
Sometimes, I think there's important information that's being given to the interpreter by the detainee, but it doesn't reach me.					

Screen 6:

Thinking specifically about **things you might do to help the dialogue when a detainee is a limited or non-native speaker of English**, please consider the following statements and indicate the extent to which you agree, disagree or neither:

	5	4	3	2	1
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
I've received training in how to identify whether a detainee needs an interpreter or not.					
PACE Codes of Practice C gives me useful guidance to identify interpreter need within a detainee.					
Having knowledge of other cultures' non-verbal communications makes you more aware and helps you see things differently.					
I know some useful words or non-verbal communications relating to other languages and cultures.					
Sometimes I'll re-phrase things to help (e.g. say tablets or pills instead of medication) them understand.					
Sometimes people say 'can you slow down, you're talking too fast for me. I can understand you, but you need to slow down'.					
On the risk assessment, where I would normally ask both parts of a question in one-go, with a limited or non-native speaker, I would break the question down into parts.					
If their English is so poor that they can't ask for something (e.g. toilet paper, food, drink, blanket), I'll get the interpreter to tell them these basic words, so they can ask for these items if needed later-on.					
I understand the psychological effects of conversing in English with a limited or non-native speaking detainee.					
I find with a lot of people who speak limited English, you seem to get a response of 'yes' for some reason.					
A non-native speaker of English will understand English in the same that I do.					

Screen 7

Consider the following examples. Given the information provided, indicate whether you think the detainee would require an interpreter or not.

Example 1: (Yes/No drop-down)

- The detainee is a young adult male from Thailand.
- He is in the UK on a student VISA.
- He is polite and compliant in custody.
- When speaking English, the Thai makes pronunciation errors, seems to have difficulty with some questions and instructions, and responds 'yes' to some open questions.
- When asked if he understands, he replied 'yes'.

Example 2: (Yes/No drop-down)

- The detainee is young adult male Tongan-Australian.
- The male left the education system at the age of 13.
- The male speaks English with a noticeable accent, using simple everyday vocabulary and structures, but commits grammatical errors.
- He responds 'yes' to some open questions.
- In his words, he "never speaking good English".

Example 3: (Yes/No drop-down)

- The detainee is a 22 year-old Russian female.
- She is a full-time university student at an English University, having been on an exchange programme to the UK in her late teens.
- She shows a high level of interactional competence in English, answering basic questions quickly and with ease, although with some minor grammatical errors, and even joking.
- Sometimes she can't think of the correct English word, but is able to explain what she means.

Example 4: (Yes/No drop-down)

- The detainee is a young adult male.
- He arrived in the UK at a young age from Poland, so went to school in the UK.
- His mother speaks no English, so he speaks Polish at home, and with most of his friends and people he interacts with.
- He appears to speak English with fluency. However, he says he would like to communicate in Polish.

Screen 8

- I have heard of the phrase 'procedural justice' (not to be confused with 'proportionate justice') (Yes/No drop-down)
- I can explain what 'procedural justice' means. (Yes/No drop-down)
- Please explain briefly (Free text box)

5	4	3	2	1
Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
And thinking about vulnerability, to what extent do you agree, disagree or neither that being a non-or limited speaker of English makes a detainee vulnerable.				

Why do you say that? (Free text box)

Screen 9: some respondent details

I am a: (drop-down)

- A custody sergeant at the moment; have previously been a custody sergeant or have gusted; trained but yet to do a shift as a custody sergeant; due to complete the custody sergeant training soon.
- Do you consent to the information you have provided in this survey to be anonymously used within this project, and within future publications? Yes/No drop-down.
- Did you participate in one of the face-to-face interviews with the researcher? Yes/No drop-down.

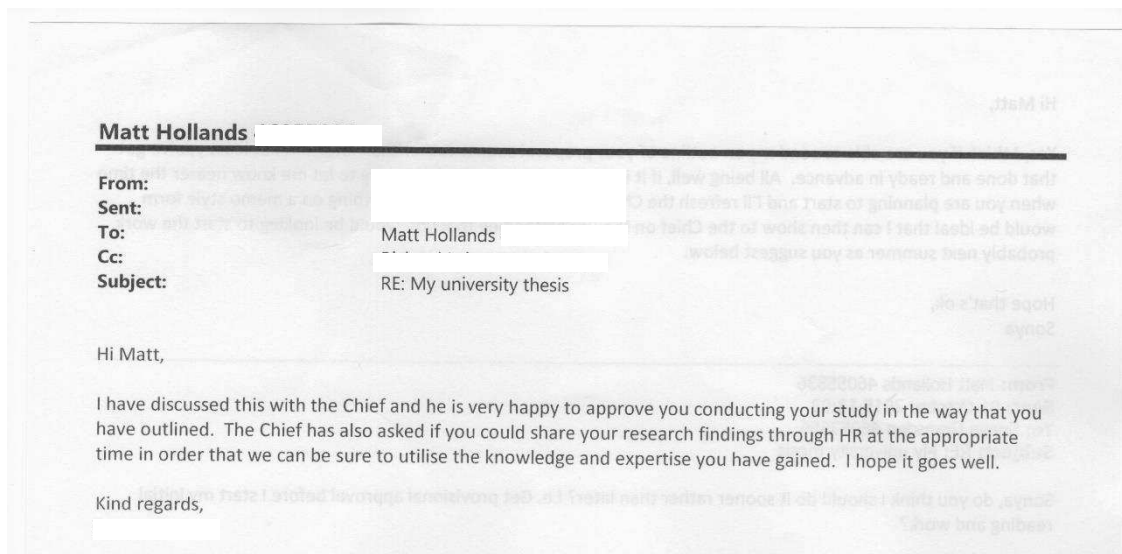
End of survey

Appendix 4: Summary of dimensions and sub-dimensions of comprehension doubtfulness

Core concept	Dimension	Sub-dimension
	Competency discovery mechanisms	If they understand the word 'interpreter', then they're capable of working out whether they need one
		I could gauge a detainee's level of English through a telephone interpreter asking the detainee in their native language
		I would be reassured if the detainee's associates or family have told police he speaks English well
		You've only got to look at the way they say the word 'mate'. You know they've spent time in the local area, picked up the language, and are actually pretty fluent in English
		They might have been in the UK for a certain amount of time, which would indicate a higher competency in English
		If they answer in a structured way, that I understand, then I'm satisfied they don't need an interpreter because I'm leading them through the booking-in process
		I think the nature of the offence comes into it as well, for example, a shoplifting compared to a more complex investigation
	Competency threshold construction	Once they know what happens the first time, coming back into custody a second, third, fourth time, makes understanding easier
		It might be that they've had some sort of education to learn English to a sufficient standard to be able to hold a conversation and understand everything perfectly well
		If they're understanding 90% of it, we can get by without an interpreter
		It's easy to assume that because someone speaks English, they understand the nuances of some of the language we're using, especially with rights and interviewing
		For a limited speaker of English, in terms of communication, the booking-in process is less demanding than the interview
	Linguistic vulnerability perception	From a custody perspective, it's all about risk and harm. If you can't work out who they are, where they're from, and then all the risk assessment questions...you're in trouble
		If they don't fully understand their rights and entitlements, then they're vulnerable from that perspective
		I do not want this detainee to die whilst they're with me. So, if I need to spend 45 minutes going through a risk assessment, I will
		Every person coming through the door to custody is potentially vulnerable
		Detainees who speak no or limited English feel a sense of vulnerability because they don't understand what is going on around them
		It's reassuring for a detainee with no or limited English when there is someone they can talk to in their own language
		They may be doubly vulnerable if they are intoxicated AND have limited English
		For some languages, interpreters are really hard to get hold of
		When giving a fairly wordy or complex explanation or question, I will finish off by summing up in simplified language
	There's a risk to the reputation of the force if we make the wrong assessment around interpreter need, and a case is lost later-on because the suspect didn't understand	
	Linguistic naivety	Having knowledge of other cultures' non-verbal communications makes you more aware and to see things differently
		Sometimes I'll re-phrase things to help them understand (e.g. say tablets or pills, instead of medication)
		Sometimes people say 'can you slow down, you're talking too fast for me. I can understand you, but you need to slow down'

	<p>On the risk assessment, where I would normally ask both parts of a question in one-go, with a limited English speaker, I would break the question down into parts</p>
	<p>If their English is so poor that they can't ask for something (e.g. toilet paper, food, drink, blanket), I'll get the interpreter to tell them these words, so they can use them later-on</p>
	<p>I understand the psychological effects of conversing in English with a limited speaker of English, upon that person</p>
	<p>I find with a lot of people who speak limited English, you seem to get a response of 'yes' for some reason</p>

Appendix 5: Chief Constable's permission to conduct research



Appendix 6: Confirmation of ethics clearance



4 October 2016

Ref: 16/SAS/312C

Mr Matthew Hollands
c/o School of Law, Criminal Justice and Computing
Faculty of Social and Applied Sciences

Dear Matthew

Confirmation of ethics compliance for your study *"An exploration of police officer identification of interpreter need amongst limited English speaking suspects brought into police custody."*

I have received your Ethics Review Checklist and appropriate supporting documentation for proportionate review of the above project. Your application complies fully with the requirements for proportionate ethical review as set out in this University's Research Ethics and Governance Procedures.

In confirming compliance for your study, I must remind you that it is your responsibility to follow, as appropriate, the policies and procedures set out in the *Research Governance Handbook* (<http://www.canterbury.ac.uk/centres/red/ethics-governance/governance-and-ethics.asp>) and any relevant academic or professional guidelines. This includes providing, if appropriate, information sheets and consent forms, and ensuring confidentiality in the storage and use of data. Any significant change in the question, design or conduct of the study over its course should be notified to the Research Office, and may require a new application for ethics approval. It is a condition of compliance that you must inform me once your research has been completed.

Wishing you every success with your research.

Yours sincerely

A handwritten signature in black ink that reads "Roger Bone".

Roger Bone
Research Governance Manager
Tel: +44 (0)1227 782940 ext 3272 (enter at prompt)
Email: roger.bone@canterbury.ac.uk

cc: Ms Emma Williams

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