Juvenile courts: creating (an atmosphere of) understanding

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Abstract. *In this paper we examine Dutch court proceedings according to juvenile criminal law. Several international treaties and agreements such as the 'Beijing Rules' (1989) acknowledge the different status of juveniles and emphasize that legal professionals have special obligations in case adolescents become a suspect. An important task for the legal system is to create an atmosphere of understanding and facilitate adolescents understanding the proceedings. This seems clear, but how do legal professionals orient to the task in real interaction and how is this interactionally constructed? In order to answer these questions, we take a qualitative approach and analyze videotapes of Dutch criminal trials in which the suspects are adolescents. Based on extracts from these court proceedings, we show how judges can orient to the special status of juveniles while interacting with them and specifically how they create (an atmosphere of) understanding.*

Keywords: *Conversation analysis, juvenile court, minors, interaction, understanding.*

Resumo. *Neste artigo, analisamos processos judiciais do tribunal holandês à luz da legislação penal juvenil. Diversos tratados e convenções internacionais, como as "Regras de Pequim" (1989), reconhecem a situação de exceção dos jovens e realçam que os profissionais judiciais possuem obrigações especiais no caso de adolescentes que se tornam suspeitos. Uma tarefa importante so sistema jurídico consiste em criar um ambiente de compreensão e em ajudar os adolescentes a compreenderem o processo. Pode parecer óbvio, mas como é que os profissionais jurídicos poderão desempenhar esta função na verdadeira interação e como é que essa função se constrói na interação? Para responder a estas questões, adotamos uma abordagem qualitativa para analisar gravações de vídeo de julgamentos criminais na Holanda nos quais os suspeitos são adolescentes. Com base nos excertos destes processos, mostramos de que modo os juizes poderão ter em conta a real situação dos jovens na interação com eles e, especificamente, de que modo criam (um ambiente de) compreensão.*

Palavras-chave: *Análise conversacional, tribunal juvenil, menores, interação, compreensão.*

Introduction: the atmosphere of understanding as a task for legal professionals

> The proceedings should be conducive to the best interests of the juvenile and should be conducted in an *atmosphere of understanding*, which will allow the juvenile to participate therein and to express herself or himself freely. (emphasis is ours)

This quote is taken from article 14.2 of the UN Standard Minimum Rules of the Administration of Juvenile Justice adopted by the United Nations in 1985, which are also known as the Beijing Rules. This article expresses the idea that governments must facilitate criminal trials in such a way that juvenile suspects ('verdachte'[1]) can understand what is happening during the trial, which would then allow them to participate in a meaningful way. Rap (2013) mentions two other reasons why understanding is important. First, because it contributes to the suspect's feeling that the trial has been fair. This is referred to as 'procedural justice' and several researchers have found that procedural justice promotes acceptance of the verdict (Jackson *et al.*, 2012; Murphy and Tyler, 2008). Second, she refers to European jurisprudence. In the case *T. v. United Kingdom*, the European Court of Human Rights considers that an effort should be made to ensure understanding by the minor suspect in order to meet the requirements of a fair trial as prescribed in article 6 § 1 of the European Convention of Human Rights (ECHR December 19, 1999).

Also, understanding probably facilitates one of the goals of juvenile courts, which is to rehabilitate the juvenile (e.g. article 40 § 1 UN Convention on the rights of the Child). Juvenile suspects should at least be prevented from repeating criminal behavior (e.g. Bartels, 2011: 3; De Jonge and Van der Linden, 2013: 77); it would not be realistic to expect the trial to lead to a change of behavior if the juvenile does not understand what the trial is about.

The practices of juvenile courts have been studied from several perspectives. For instance, the seminal study of juvenile justice by Cicourel (1968), which comes from the perspective of the theory of social organization, shows, among other things, how prejudices based on socio-economic status, race and residence influence the outcome of the juvenile procedure. Kupchik (2006) uses both qualitative and quantitative methods to compare how youth are tried in the USA, inspired by a development that juvenile delinquents are transferred to criminal courts. He compares the actual practices in juvenile courts with criminal courts. He focuses on three dimensions: 1) the formality of the case processing, 2) the evaluation of the defendants and 3) the sanctioning goals and the severity of the punishment (2006: 8). The first dimension is most relevant for the current paper. Kupchik finds that juvenile courts generally are less formal than criminal courts. 'Less formal' indicates here, for example, that the veracity of statements can be discussed orally, rather than through written motions. Furthermore, interruptions and side talk may be treated as non-problematic, as well as in a less formal tone by lawyers. He also refers to family members that are actively involved in the juvenile court proceedings (2006: 50–65). Criminal courts tend to be more formal. That is, until the juvenile has been found guilty and the court needs to consider the sentence, when the juvenile may become actively involved in the proceedings and the tone may change into 'admonishment'.

More recently, Rap and Weijers (2011) adopt a pedagogical and international-comparative approach. They find that Dutch juvenile courts generally give the juvenile

enough opportunity to participate, but also that courts differ greatly in how they show that they are taking the suspect's contribution seriously (for example by asking follow up questions). Moreover, they conclude that judges generally lack a 'good conversational technique' and as a result talk too much and listen too little. Rap and Weijers also point out that juveniles often have great difficulty understanding what is happening and that often there are no explanations about the events and roles in court, that a lot of legal register is still used, and that the verdicts are not always comprehensible.

What has received less attention so far is how the notion that understanding is an important value of juvenile justice is shaped and dealt with turn by turn in actual courtroom interaction. This is important because interactional turns are the building blocks of the interaction. Values prescribed in international conventions, such as 'understanding' and 'participation', have to be brought to life through the turns that the participants produce (we will elaborate on this in section 3). In this paper we explore the linguistic resources that judges can employ to contribute to the required 'context of understanding' and 'atmosphere of understanding'. By doing so, we also illustrate how interaction analysis can give content to national and international tasks for legal professionals. We would like to point out that our focus on juvenile courts does not imply that understanding is of less importance in cases with adult suspects. Rather, it seems that participants in juvenile courts, mostly the judge, make this issue salient themselves in the interaction in a way that maps on the prescriptions provided by international conventions. Before we move on to the data description and analysis, the next section provides some background information about juvenile criminal courts in the Netherlands.

The Dutch juvenile court: inquisitorial procedures

In the Netherlands, juveniles can be brought to court for crimes they have committed from the age of twelve. The maximum age for the juvenile court is somewhat flexible. Depending on the personality of the juvenile offender and the nature of the crime, 16- and 17-year-old suspects can be tried according to criminal law for adults (article 77b). And the other way around, if the court and prosecution find it appropriate, those who were 18-22 while (allegedly) committing the crime can be tried by a juvenile court (article 77c Criminal Code). This has been changed recently. Before April 2014, only suspects who were 18 or 19 during the crime could be tried by a juvenile court. In this paper, we focus on adolescents who are tried by a juvenile court.

Juvenile courts are chaired by one juvenile judge when the offense committed is minor. In more severe, or more complex, violations of the law, the juvenile judge is accompanied by two other professional judges. There is no jury, nor are there lay judges. The proceedings are not open to the public. The overall organization in Dutch juvenile court proceedings can be summarized as follows (Tak, 2008: 100-101; expanded by us, including some details specific for juvenile courts):

1. Identification of the suspect by the judge;
2. Cautioning of the suspect;
3. Reading of the charge(s) by the public prosecutor;
4. Examination of the suspect, witnesses and experts by the judge, followed by additional questions of the suspect and witnesses by the public prosecutor and defense lawyer;
5. Discussion of the suspect's personal situation (including education, housing, possible addiction, day-time activities, relation with parents, etc.). Parents, parole

officers and behavioral scientists can be consulted by the court (followed by the prosecutor and defense lawyer);
6. Closing statements by the prosecutor and defense lawyer;
7. Final statement by the suspect;
8. Delivery of the verdict and sentence in open court – immediately or within two weeks.

The Dutch system is mostly inquisitorial, which means that judges have an active role in examining the evidence (phase 4). It is their task to decide about the charge and sentence. This means that there is not a separate 'case processing phase' and a 'sentencing phase' as can be found in e.g. Anglo-American systems (e.g. Kupchik, 2006). The court decides once, both about guilt and sanction (and both the nature and the length).

Most of the investigation regarding the accusations happens *before* the trial. The police interview suspects and witnesses and write up the statements in a report.[2] The written statements become part of the case file together with other reports, e.g. about observations by the police, wiretapping, fingerprints, DNA. Those pieces of evidence that are considered relevant must be read out loud (or at least mentioned) in court, otherwise the court cannot use the documents for its decision (article 301: 4, Code of Criminal Procedure).[3] The written statements can be introduced to the court in various ways, by summarizing or paraphrasing the gist, by indirectly reporting from it, or by reading directly from the statement (Van der Houwen, forthcoming). These various ways of introducing written reports have different effects (Van der Houwen, 1998, 2000, 2012, forthcoming) and direct reports, rather than summaries or indirect reports, are used specifically when they directly relate to the charge, as we will see in some examples below. The court reads the case file before the court hearing, and then confronts the suspect with its content. Witnesses generally do not give evidence in court, rather their written statements are used. The suspect's statement made at the police station is treated as their primary evidence; when suspects tell a different story in court, they are reminded of their earlier statement to the police (Van der Houwen, 2013; Van der Houwen and Jol, 2016). The prosecution and defense lawyers also refer frequently to the case file, both embedding and quoting from it (Sneijder, 2011; Van der Houwen and Sneijder, 2014; D'Hondt and Van der Houwen, 2014).[4] Hence, the statements are important 'written voices' that can be reanimated in court and limit the suspect's freedom to tell a different story.

Furthermore, the case file forms the basis for the indictment as drawn up by the prosecutor. The indictment states what the suspect is charged with. This is the point of departure for the judge who checks whether it is correct and complete (Kronenberg and de Wilde, 2005). It is therefore a story of guilt rather than innocence that is behind the judge's line of questioning. The fact that all the evidence must be put to the court and that the indictment is the point of departure might have consequences for the creation of an (atmosphere) of understanding. These procedures have a significant effect on the judge's line of questioning (Van der Houwen, 2013) which markedly differs from 'everyday' interaction. Furthermore, these procedures limit the suspects' freedom to tell their story in court because the written documents tend to override the suspects' oral story during the proceedings (Van der Houwen and Jol, 2016).

Now that we have given some background information about how Dutch (juvenile) courts are organized, we will move on to how the core purposes and values of youth courts (as described in the first section of this paper) are shaped and negotiated inter-

actionally. The next section describes the data and method that we use to answer this question.

Data and Method

The data come from a corpus of Dutch criminal trials video recorded in 2008. In three of these the suspects were minors and all three cases were chaired by the same judge and tried as a juvenile court case. This judge told one of the authors that he is well aware of the vulnerable status of juvenile suspects and that he avoided using difficult words, for instance.[5] Special permission was obtained from the Ministry of Justice to be able to attend and video tape the trials. The condition was, however, that only the judge and public prosecutor could be on camera and not the suspects (nor, as a result, their lawyers because they sit close to them). Most of the examples that we use in the analyses come from phase four and five in which the judge examines the charges and discusses the suspect's personal situation. The exchanges are mostly between the judge and the suspect. All materials have, of course, been anonymized. The video material of the trials was transcribed drawing on the system developed by Gail Jefferson (e.g. Jefferson, 2004; see the Appendix for the transcription conventions). Because the transcripts have been translated, some of the details have been omitted if there was no satisfactory way to represent them in English.

The techniques of Conversation Analysis (e.g. Sidnell and Stivers, 2012) were used for collecting and analyzing the court proceedings. Conversation analysis is an inductive method especially suited to analyzing the sequential organization of talk. From a conversation analytical point of view, institutional interaction is not institutional because of its physical setting; rather, the institutionality of the interaction is constructed and maintained in and through the turns the participants take. In these turns they orient to particular (institutional) norms, roles, and goals and thus 'talk these into being' (Heritage and Clayman, 2010: 20). Because conversation analysis focuses on the interaction itself, the method is very useful for analyzing how participants in juvenile court interaction orient to the task of creating an 'atmosphere of understanding'. Although we do realize that judge(s) and suspect(s) are not the only relevant participants, we will focus on their interaction because judges do most of the interacting with suspects during the proceedings.

Creating understanding in a juvenile court

In this section and the next we present our findings. We discuss how professionals and especially the judge interact with juveniles in court and create (an atmosphere of) understanding. In section 4 we focus on how understanding of the trial is created by examining how difficult words and questions (4.1), difficult instructions such as the caution (4.2) and the overall procedures (4.3) are explained. In section 5 we focus on how an atmosphere of understanding is created.

Explaining difficult words and giving sample answers

An obvious way to facilitate the juvenile's understanding of the procedures is by using 'everyday vocabulary' and avoiding the more difficult or infrequent words that they may not be familiar with. Extract 1 comes from a case in which there are two juvenile suspects. They are accused, among other things, of using violence when stealing an iPod. The extract comes from phase 5 (discussing the suspect's personal situation). J is the Judge.

Extract 1: Explaining difficult words: trivializing
(Case 2b, starting at 2:05:18)

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1   J:  wat wat de psycholoog opvalt
        what what strikes the psychologist
2       is dat jij
        is that you
3       ja uh
        well uh
4       je bagatelliseert je aandeel
        you trivialize your share
5       dat wil zeggen van he
        that means like well
6       je bent er wel bij maar eigenlijk heb ik niet zoveel
        gedaan
        you are there but actually I didn't do that much
7       (..)
8       ik zou zeggen dat zie je hier op zitting
        I would say that you can see that here during the
        trial
9       stel je voor dat jij wel meer gedaan heeft
        imagine that you did do more
10      dan je zelf zegt
        than you say/admit yourself
```

Extract 1 is an example of how the judge orients to what may be vocabulary the juvenile is not familiar with. Going over the suspect's personal situation the judge goes over the report of a psychologist who examined the suspect. The judge reports the psychologist's finding (line 1-4) that the suspect 'trivializes' his part in the crime. In line 3 we can already see some of the judge's orientation to the upcoming word 'trivialize'. He halts using a hesitation marker 'well uh'. The hesitation marks 'trouble' for the judge. This trouble marker may demonstrate awareness of an upcoming face threat (Brown and Levinson, 1987) for the juvenile. It may also already project expected difficulty in understanding a not so frequent word as 'bagatelliseren' (*trivialize*) might cause. That this is at least part of what is going on is visible in lines 5-7 in which the judge reformulates the term 'bagatelliseren'(*trivialize*). The judge then further explains what he means by giving a hypothetical example (lines 8-10 and on, not further included).

We find this type of orientation to the suspect's presumed level of understanding not only at the word level but also at the level of utterances. The next example illustrates how the judge (J), after the suspect (S) gives a dispreferred answer, repeats the question followed by sample answers.

Extract 2: Giving sample answers
(Case 5, starting at 0:24:58)

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1  J:  ja
       yes
2      maar dat is niet het antwoord op mijn vraag
       but that is not the answer to my question
3      want jij zegt
       because you say
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4 dat komt door mijn gedrag
that is because of my behavior
5 maar mijn vraag is nou juist
but my question exactly is
6 waarom gedraag je je zo
why do you behave like that
7 der zijn jongens die doen het omdat ze er een kick van krijgen
there are boys who do it because they get a kick out of it
8 der zijn jongens die doen dat omdat ze bij een groep willen horen
there are boys who do that because they want to belong to a group
9 der zijn jongens die doen dat omdat ze meelopers zijn
there are boys who do that because they are followers
10 der zijn jongens die doen het voor het geld
there are boys who do it because of the money
11 der zijn jongens die zijn gewoon crimineel
there are boys who just are criminal
12 uh
uh
13 naja uh noem maar op
well yeah uh you name it
14 (3)
15 maar waarom doe jij het?
but why do you do it
16 (6)
17 S: (dat weet ik eigenlijk niet)=
(I actually don't know)=
18 J: =want eigenlijk is dat zorgelijk
=because that is actually worrying

Before extract 2 the judge had asked the juvenile why he had been expelled from school and why he had committed two serious crimes. The suspect answered that it was 'because of his behavior'. Although this answer would 'match' the question why the juvenile has been expelled, the judge acknowledges this answer only minimally (line 1) and then disqualifies the answer explicitly (line 2). He first repeats the suspect's answer, demonstrating that reception of the answer is not the problem, and thus making clear that the problem lies in the content of the answer. He restates his question (line 5-6) and prefaces it with 'but', marking the suspect's answer as not the projected answer (see Jol and Van der Houwen, 2014). In lines 7-11, the judge exemplifies how his previous question should have been understood by giving sample answers. These sample answers seem to be designed to reduce possible resistance: they are formulated to be about other boys and not the suspect. This allows the participants to take a brief break from directly questioning the suspect. This conversational design may be less personal and less face threatening than asking 'did you do it because you get a kick out of it' etc. Additionally, the sample answers are designed to give the suspect the freedom to come up with other alternatives. The answers are constructed as examples (rather than forced choice options) in two ways. First, line 10 does not end with 'or'. This would be expected if line 11 was going to provide the final option. Second, in line 13, the judge

proceeds with 'well yeah uh you name it'. This implies that there are many other reasons for criminal behavior, giving the suspect freedom to come up with another answer. The suspect, however, does not respond to the examples (line 14), and the judge repeats his question again (line 15). The suspect, after a long 6 second pause, says he doesn't know (line 17). The judge then evaluates the suspect's 'I don't know' answer and explains why that is problematic: if the suspect does not know the causes of his behavior, he cannot work on these causes (not included in this extract). The judge thus warrants his previous question as a relevant institutional question: he needs 'something to work with'.

The judge, hence, shows an orientation to designing his vocabulary and utterances explicitly to match the presumed level of understanding of the suspect. In extract 1 the judge pre-empted potential trouble with the word 'bagatelliseren' (*trivialize*). In extract 2 the dispreferred answer by the suspect prompted the judge to model what type of answers are potentially 'good' answers.

Explaining a legal right: Cautioning a juvenile suspect

Anyone being tried has several rights. But for lay people, and especially juveniles, it may be difficult to fully comprehend the meaning of these rights. The first opportunity that the judge has to explain is at the very beginning of the trial. In the Dutch system suspects are cautioned not only before they are interrogated by the police but also when they are examined in court by the judge. The caution is prescribed in article 29:2 of the code of criminal procedure and states that 'before the examination the suspect is told that he [sic] is not obliged to answer' ('Voor het verhoor wordt de verdachte medegedeeld dat hij [sic] niet verplicht is tot antwoorden.'). Judges are however free in how they inform the suspects of their rights and the formulation may vary (see Van der Houwen and Jol, 2016). Extract 3 shows how the juvenile judge uses the flexibility in the formulation of the caution.

Extract 3: Explaining the suspects' rights
(Case 2a, starting at 0:03:16)

1	J:	nou goed.
		well okay.
2		jongens voor jullie allebei geldt,
		boys for both of you holds,
3		op vragen hoef je geen antwoord te geven,
		you don't have to answer questions,
4		dat mag natuurlijk wel,
		that is of course allowed,
5		maar je moet wel goed opletten,
		but you have to pay careful attention,
6		als je iets niet begrijpt,
		if you don't understand something,
7		of het gaat te snel,
		or things are going too fast,
8		dan moet je het zeggen,
		then you should say so,
9		dan zeggen we het nog een keer,
		in that case we repeat it,

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10    of zeggen we het anders.
      or we say it in a different way.
11    ja?
      yes?
12    nou eerst nog officier van justitie uh,
      now first still the public prosecutor eh,
13    vertellen wat de verwijten zijn aan jullie adres,
      will tell what accusations are made against you,
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Extract 3 shows that the judge gives the juvenile suspects the basic caution 'you are not required to answer questions'. However, instead of proceeding immediately to give the floor to the prosecutor to inform the court what the suspects are accused of, the judge elaborates and explains in quite a bit more detail than we would see with adult suspects (Van der Houwen and Jol, 2016) what is expected of the m (lines 4-10). He specifically mentions two potential problems, namely, understanding (line 6) and the speed of what goes on (line 7) and how these might be remedied (line 8-10). The judge thereby acknowledges that this is a potentially difficult interaction but he gives the suspects options to adopt to ensure they understand what is going on: the professionals can be asked to repeat what they have said or to phrase it differently (line 9, 10); this shows a clear orientation to ensuring the suspects' understanding. At the same time, we would argue that the judge makes the suspects co-responsible for their understanding of the proceedings by instructing them to say so if these problems occur (line 8). Hence if they do not say anything the judge can assume that things are clear and not going too fast.

Explaining what is going on during the trial

Another way for the judge to make the trial more accessible is to explain what is going on and explicitly mark different courtroom activities. Such explanations can be done in sequentially different positions. We found that judges can announce what the next step(s) will be before the new activity starts, or summarize what has happened *afterwards*. An example of the first variant is shown in extract 4.

Extract 4: Then we are really going to start now
(Case 2b, starting at 00:51:00)

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1  J:  goed nou dan gaan we nu uh
       good well then we will now eh
2      dan gaan we nu ↑echt beginnen,
       then we are really going to start now,
3      uhm
       ehm
4      en ik ga met jullie bespreken;
       and I'm going to discuss with you;
5      uh
       uh
6      waarvan de officier jullie beschuldigt;
       what the public prosecutor accuses you of;
7      •hh ik ga:  dat niet helemaal in detail-
       •hh I will not do that in a very detail-
8      heel uitgebreid bespreken,
       very comprehensively,
9      en ik hoor wel van:  de raadslieden;
       and I'm sure that I will hear from the lawyers;
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10 of de officier;
or the public prosecutor;
11 als die straks vinden;
if they think later on;
12 als ik het met jullie per feit besproken heb;
when I have discussed it with you per accusation;
13 of alles wel besproken is of niet;
if everything has been discussed or not;
14 he,
right,
15 maar ik (doe ut/moet) een beetje op hoofdlijnen
but I will (have to) discuss the broad outlines
16 met jullie uh bespreken.
with uh you.
17 en de ervaring leert dat de officier
and experience tells us that the public prosecutor
18 en de advocaten
and the attorneys
19 zometeen in hun pleidooi
later on in their final statements
20 ook nog wel een keer op in gaan.
will also say something about it once more

In extract 4, line 1-2, the judge introduces the next activity with 'good then we are really going to start now'. By formulating it this way the judge treats the exchanges (about procedural issues, not included in the extract) thus far as not the 'real' beginning, and the upcoming events are marked as a new activity or phase. The explanation that follows makes clear what will happen next. The explanation is construed as an explanation to the suspects by addressing them with 'you' in lines 4, 6, 12 and 16. Moreover, the judge corrects himself in lines 7 and 8: instead of finishing 'in detail' (line 7), he chooses an easier option (in the Dutch original) by saying 'heel uitgebreid' ('very comprehensively'). Which shows again orientation to the juvenile's understanding. Thus, the judge construes the suspect as addressee; the public prosecutor and the attorneys are 'the overhearing audience' of the explanation.

Interestingly, the judge also orients to this 'overhearing audience'. First of all, he provides information that can be interpreted as instructions for both the public prosecutor and the attorneys that – after discussing the accusations – they should say if 'everything has been discussed' (line 13). This type of content can hardly be directed to the lay suspects because it refers to article 301: 4 of the Code of Criminal Procedure which states that evidence must (at least) be referred to during the trial, otherwise it cannot be used for the decision (see also footnote 5). The suspects cannot be expected to understand the full meaning and implications of this remark. In addition, when the judge mentions the public prosecutor in line 10, he seems to look in her direction and thus constructs her as an addressee (see e.g. Rossano, 2012 for a discussion of the role of gaze). For the purpose of this paper it is important that the judge primarily addresses the suspect and trusts the legal professionals to pick up the subtle instructions, and not the other way around (which also could have been the case). The judge therefore does active interactional work that orients to the suspects' understanding of what is happening during the trial and to their involvement in the courtroom interaction (as an addressee of the explanation), while at the same time instructing the legal professionals about how to proceed.

Now we will turn to an extract in which the judge explains the proceedings by giving a summary afterwards. What we find particularly interesting in the context of this article is the utterances in lines 11 and 12. DL is the defense lawyer.

Extract 5: Summary afterwards
(Case 2b, starting at 00:05:34)

1	J:	nee dan hebben we dat ook eh helder (om te ?)
		no then we have clarified that too eh (for?)
2		bij de rechtbank het vermoeden (.) was dat er nog een •h
		with the court there was the presumption (.) that another •h
3		eh over drie dagen ofzo nog een zaak behandeld zou uh gaan worden
		eh within three days or so yet another case would be tried
4	DL:	*ja dat was die tul die oorspronkelijk [een bezwaarschrift werd*
		yes that was the tul[6] that originally [would become an appeal
5	J:	[o:kee
		[o:kay
6	DL:	oorspronkelijk over drie dagen behandeld
		originally tried within three days
7	J:	[(oh)]
		[(oh)]
8	DL:	[maar] ut leek natuurlijk wat praktischer om dan [hier];
		[but] it of course seemed somewhat more practical to do it [here]
9	J:	[oke]
		[okay]
10		oke
		okay
11		dan issut helder
		then it's clear
12		staat er in iedergeval niks uh voor jou uh voor jou open,
		there are in any case no open cases uh for you eh for you,
13		•h uhh en ja en dan;
		•h uhh and yes and then;

In lines 1-9 there is a discussion about the status of other procedures. The participants in the interaction are the judge and the lawyer. Unlike in the previous example, the suspect is not an addressee, neither is there any evidence of orientation to the suspect as an overhearing participant. In lines 9 and 10, the judge starts closing the topic provided by the attorney with 'okay okay' (Beach, 1995: 278–282,Gaines, 2011: 3298–3301). Next, he looks back at the previous sequence by evaluating it with 'then it's clear' (line 11). At the same time, the utterance already announces the summary in line 12, which explains more precisely what exactly is clear now and what the evaluation in line 11 refers to. In his summary, the judge leaves out the procedural details that were part of the previous negotiation and he limits himself to giving the outcome that is most likely to be rele-

vant for the suspect. In this sense, the utterance shows similarities with 'formulations' (Heritage and Watson, 1979: 126). Formulations summarize the gist of the talk thus far and usually preserve, delete and transform information (Heritage and Watson, 1979) in order to serve institutional goals (e.g. Van der Houwen and Sliedrecht, 2016; Sliedrecht and Van der Houwen, 2016; Sliedrecht *et al.*, 2016; Sliedrecht, 2013; Van der Houwen, 2005, 2009; Phillips, 1999). In this case, the formulation also shows what is relevant for the institution: there are no other procedures that need to be dealt with.

However, this formulation does something extra. Whereas formulations are generally between two interlocutors or only address a third party implicitly (e.g. formulations for the overhearing audience in news interviews, Heritage, 1985), the judge explicitly addresses the third party, the juvenile, by adding 'for you eh for you' at the end of his utterance. The judge thus explicitly changes the addressee of his talk from the attorney to the suspect, and thus acknowledges the juvenile's presence. This is significant as the preceding exchange was between the judge and the attorney. Combined with the gist of the previous interaction, the judge demonstrates an orientation to the fact that the suspect was not a part of the previous exchange and that he may not have understood the content of that exchange. Moreover, he shows an orientation to the norm that the suspect should understand the trial.

Extracts 4 and 5 show that judges can do interactional work at different levels, in order to accommodate the juvenile in understanding the trial. First the judge provides explanations of the procedure at content level. Second, he construes these explanations as directed to the juvenile. By doing so he acknowledges the presence of the juvenile and shows alertness to a possible lack of understanding about the procedures at hand. Furthermore, extract 4 shows how the judge can, at the same time, instruct the legal professionals in a subtle way so that the focus stays on the suspect. This section as a whole shows how the judge can assist the juvenile suspect in understanding the trial, in terms of words, rights and procedures. So far, the emphasis has been on 'rational' understanding. In the next section we will turn to the more abstract and, possibly, more 'emotional' aspect: the atmosphere of understanding.

Creating an *atmosphere* of understanding

The Beijing Rules state that it is not only important that juveniles understand what happens during the trial, but also that there is an *atmosphere* of understanding. In this section we show how different practices by the judge can contribute to such an atmosphere of understanding and might prevent the suspect from feeling alienated from the courtroom interaction. First we discuss how the court addresses the suspect (5.1), and then we demonstrate how the court can show sensitivity to the suspect's feelings (5.2).

Addressing the suspect

One salient aspect in juvenile courts is how participants address one another. This is best understood when contrasted with (adult) criminal trials. The courtroom in the Netherlands, as in most places, is a formal setting and this formality is reflected and reinforced by the use of formal terms of address. The participants are not normally addressed on first name terms and so address each other either by their role or by Mr. or Mrs. followed by their last name. Dutch is a V/T language, which means that formality can also be expressed by the second personal pronoun 'you' (see table 1).

Second person pronouns	Informal	Formal
Singular 'you'	jij (emphasized informal form) je (less emphasis on informality)	U
Plural 'you'	Jullie	U

Table 1. Forms of the 2nd personal pronoun 'you' in Dutch according to number and formality.

For the legal professionals it is custom to address one another with formal 'you' 'u' and also the suspect is addressed with 'u'. Furthermore, the judge is often addressed as '(geachte) voorzitter' (literally (dear) chairman/woman) or 'meneer/mevrouw de politierechter' (literally: Mr. or Mrs. Police judge). The prosecutor is addressed as 'meneer/mevrouw de officier' (Mr/Mrs. Prosecutor), and the lawyers are generally addressed as Mr. or Mrs. followed by their last name. When not addressing lawyers directly but talking about them they may be referred to as 'lawyer' or 'counsel'. Similarly, adult suspects are normally addressed as Mr. or Mrs. followed by their last name or when being talked about they can also be called 'suspect' (verdachte).

In juvenile court these terms of address do not change for most players, except for the suspect when addressed directly. Extract 2 is an example that comes from the case in which two juveniles stand trial on suspicion of robbery and making threats. The judge verifies the name and residence of the first suspect, as is standard at the beginning of a criminal trial (see phase 1 in section 2).

Extract 6: Informal 'you'
(Case 2b, starting at 0:00:49)

```
1  J:      Uh Dyson Sam Karson
           Uh Dyson Sam Karson
2       →  dat ben jij he
           that is you [informal 2nd p.  sg] right
3       →  Uh je bent geboren in Rotterdam
           Uh you [informal 2nd p.  sg] were born in Rotterdam
```

The judge, without asking, addresses the suspect with informal 'you' (jij/je) and the suspect accepts this without protest. Extract 7, coming from the same case, is a little longer, and illustrates various forms of address and how participants actively characterize the relationship with other professionals different from the relationship with the suspect. In the trials that we studied, however, we have found two exceptions in which the judge addresses the juvenile suspect with 'u' (lines 7 and 13):

Extract 7: Switch from formal to informal 'you'
(Case 2b, starting at 0:42:02)

```
1  J:    u::h dan:
         u::h then:
2        Kevin
         Kevin
```

3			Kevin Stafman *Kevin Stafman*
4			8 september 1990 *September 8 1990*
5			in Harderwijk geboren *born in Harderwijk*
6			e:n uhm: *a:nd uhm:*
7		→	waar woont u nu op dit moment *where do you* [2nd p. sg formal] *now currently live*
8	S2:		Bezemertraat 235 *Bezemertraat 235*
9	J:		ja↑ (.) , *yes ↑ (.)* ,
10			maar (2) *but (2)*
11		→	waar zit je nu (juist) in een gesloten jeugdzorg he *where are you* [2nd p. sg informal] *now in a closed youth care institution right*
12	S2:		J.O.C.[7] *J.O.C.*
13	J:		in het J.O.C zit u
		→	*in the J.O.C. are you* [2nd p. sg formal]
14			ok *okay*
15			ja *yes*
16			ok *okay*
17	J:	→	goed uh jongens voor jullie allebei geldt, *okay uh boys for both of you* [2nd p. pl. informal] *holds*,
18		→	dat jullie [2nd p. pl informal] op vragen geen antwoord hoeven te geven, *that you do not have to answer questions*
19		→	maar dat je wel goed op moet letten. *but that you* [2nd p. sg informal] *do have to pay attention*
20			nu zijn we al meerdere keren bij elkaar geweest? *now we have already been together various times*
21			uhh uh, uhh uh,
22			maar ik zou toch de officier willen vragen, *but I would still like to ask the prosecutor*
23			zij het wat mij betreft in een samengevatte vorm, *albeit in as far as i am concerned summarized form*
24			dat ze nog een keer vertelt, *that she tells one more time*
25			u:h *u:h*
26			waarvan jullie uh worden verdacht. *what you* [2nd p. pl. informal] *are suspected of*
27	P:		dank u wel *thank you*

```
28        meneer de voorzitter
          Mr.  chair
29        voorzitter leden van de rechtbank
          chair members of the court
30    →   guildo gaas en Kevin Stafman worden deels van
          hetzelfde verdacht
          guildo gaas and Kevin Stafman are partly suspected
          of the same
```

While in the first extract the judge consistently addressed the first suspect informally, when the judge verifies the name and place of residence of the second suspect, he is not consistent in how he addresses him. In lines 7 and 13 the suspect is addressed with the formal personal pronoun 'you' ('u') but in line 11 the judge switches to the informal pronoun (but not emphatic) 'je'. And when both suspects are addressed, from line 17 both are addressed informally as 'boys' and with the informal plural pronoun 'jullie'. It could be that the age of the suspects plays a role. The first suspect was born in 1993, but the second suspect, born in 1990, is three years older. Standing trial in 2008 the second suspect may have turned 18 at this point, legally an adult. Whatever the reasons may be, the judge does show that addressing can be an issue that matters in juvenile courts and that can cause a struggle for the judges (although the suspect does not react to or protest against the changes, at least not in an observable way).

It also becomes clear that, although the suspect can be addressed less formally if they are a juvenile that does not mean that the whole interaction becomes less formal. In line 27, the prosecutor uses formal 'u', followed by a formal, formulaic way of addressing the court (lines 28-29); by doing so the professionals maintain the formal setting. In addition, they construe the suspect's position, and their relation to the suspect as clearly different from – and less formal than – the other participants.

Extracts 6 and 7 illustrate how juvenile suspects are addressed in a less formal way. The informal 'you' is not normally reciprocal and shows hence a difference in hierarchy (power dimension). We would argue that there is also another, more positive, dimension to this. Children under 18 in the Netherlands are rarely addressed with formal 'you' (parents, school teachers, sports coaches etc. will use informal 'you'). To be addressed with formal 'you' in court would be marked for the juvenile and probably alienating. Addressing the juvenile suspect with informal 'you' could hence lower the threshold for participating and contribute to an atmosphere of understanding.

Addressing the juvenile suspect's feelings

Another strategy judges might use to create an atmosphere is to show understanding and orient to how juvenile suspects might experience their day in court and how they feel about the courtroom proceedings. As we will see, this attention for the suspect's feelings also serves institutional goals. Extract 10 comes from the examination phase. The judge examines the evidence and relies on the various police statements in the case file. The issue is whether the suspect threatened a victim with a knife to prevent him from leaving.

Extract 8: Nervousness of the suspect as an excuse for inconsistencies (Case 2b, starting at 0:58:57)

1	J:	dat is wat je bij de politie zegt
		that is what you say at the police
2		(3)
3		en bij de politie dan lijkt het toch alsof je zegt
		and at the police it does appear as if you say
4		van nou ja
		like well yes
5		ik wilde indruk op hem maken door met dat mes
		I wanted to impress him with that knife
6		hij wilde weg maar dat mocht niet
		He wanted to leave but that was not allowed
7		(2)
8	S1:	(nee ik heb niks met dat mes gedaan)
		(no I didn't do anything with that knife)
9	J:	je hebt niks met dat mes gedaan
		you didn't do anything with that knife
10		(5)
11		uhm
		uhm
12		nu kan het zijn dat het een tijdje geleden is he
		now it can be that it has been a little while right
13		nu kan het zijn dat je het ook spannend vindt he
		now it can be that you also find it exciting right
14		zo'n zitting
		a trial
15		je weet niet wat he wat wij gaan vinden
		you don't know right what our opinion will be
16		eh dat je misschien zenuwachtig bent
		eh that you maybe are nervous
17		(2)
18		dat zou kunnen
		that could be
19		ben je zenuwachtig?
		are you nervous?
20	S1:	(xx) [klopt
		(xx) [correct
21	J:	[ja nou ja
		[yeah well yeah
		((4 lines omitted))
26		maja dan vind ik het raar he dat je mij (.) dan zulke antwoorden geeft he
		but yeah then i find it strange right that you give me (.) answers like that right
27		want wat je bij de politie verklaart
		because what you state[8] *to the police*

The judge, just before extract 10, puts to the suspect what he reportedly told the police on an earlier occasion. The judge then formulates the gist of what he has just read from the police record (lines 3-6) to check with the defendant if this is indeed how things happened (see Van der Houwen, 2005, 2009; Stommel and Van der Houwen, 2013). The suspect first denies that he has 'done anything with that knife'. The judge repeats this answer (line 9), changing the perspective from 'I' to 'you', showing reception of the suspect's utterance but no commitment to it (Svennevig, 2004; Jol, 2011). After an ex-

tensive pause (line 10) the judge forms two hypotheses about what could be going on: it could be that it has been a little while (line 12), and it could be that the suspect finds the court hearing exciting (line 13). Here, the judge shows understanding and temporarily switches from examining the evidence to addressing the suspect's feelings. The suspect acknowledges he is nervous (line 20) only after the judge specifically asks him (line 19).

However, that the suspect might be telling the truth is *not* one of judge's hypotheses. The judge's reaction thus treats the suspect's denial (line 8) as insufficient and not acceptable (see Van der Houwen, 2013) and caused by something other than that the suspect faithfully recounts what happened. The written statement is still construed as a more important source of information (line 26-27) and given precedence over the suspect's oral story in court (see also Van der Houwen and Jol, 2016)[9]. The showing of understanding hence is used to give the suspect an excuse for giving answers that are not in line with what the police have written down, giving no space for alternative storylines from what the police wrote down and making it very difficult for the suspect to come up with alternative storylines. Contrasting versions in legal context are often associated with being 'inconsistent' and therefore 'being unreliable' (e.g. Drew, 1992; Shuy, 1993) or at least challenging (Jol and Van der Houwen, 2014; Sliedrecht *et al.*, 2016). The display of understanding in this sequence, however, presumes that the inconsistent answers must be due to some external factor such as it being some time ago (hence the suspect's memory might not be so good) or the suspect is nervous, rather than due to a potential error or lack of subtlety in the police statement.

In extract 9 the judge is still examining the evidence with the same suspect as in the previous extract. This time the suspect's lawyer does the showing of understanding and blames the judge for being too 'strict' in the way he questions the suspect. Preceding the extract the suspect gives answers which are inconsistent with what the judge has learned from the statements in the case file. The extract starts with the judge suggesting that the suspect talks to his lawyer about his procedural attitude.[10]

Extract 9: The judge being open for correction
(Case 2b, starting at 1:14:44)

```
1  J:  i-ik wil je niet ergens toe dwingen,
       I-I do not want to force you into something,
2      maar (ik zie/misschien) dat je advocaat even met jou
       moet uh
       but (I see/maybe) that your lawyer should briefly
       discuss
3      even overleggen
       with you
4      over de proceshouding van jou.
       about your procedural attitude.
5      kijken of dat zo (..)  besproken is maar;
       see if that has been (.)  discussed like this but;
6      (..)
7  J:  ik weet niet wat er me-
       I don't know what wi-
8      ik weet niet of uw client of dat of da-
       I don't know if your client if that if tha-
9      (xxxx) beetje (xxx) weet niet of dat
       (xxxx) little (xxx) don't know if that
```

10 nou ja
well
11 •hh u vOOrbereid bent
•hh you are prepared
12 op een uh op een proceshouding zoals nu
for a procedural attitude like now
13 hh
hh
14 of dat –
or that –
26 DL1: nou ja,
well,
15 ik denk dat–dat Kevin heel erg zenuwachtig is ,
I think that that Kevin is very nervous ,
16 maar dat ie op zich wel een open proceshouding
hee:[ft
but that as such he does have an open procedural attitude
17 J: [ja
[yes
18 DL1: en dat heeft ie ook van te voren aangekondigd,=
and that he has also announced in advance,=
19 J: =ja
=yes
20 DL1: dat heeft ook (.) op tot heden ook gehad,=
that is what he has had until now,=
21 =ik denk dat u een beetje de vragen heel <streng
stelt>=
=I think that you a bit you ask the questions in a very strict way=
22 =•h
=•h
23 J: ja=
yes.
24 DL1: =>en dat hij een beetje dicht klapt<=
and that he shuts down a bit
25 J: =ah ok dus ik moet ze minder streng –
=ah okay so I should ask them less strictly =
26 >nee nee< dat hoor ik graag hoor
>no no< I'm happy to hear that
27 DL1: [maar uh;
[but uh
28 J: [als het aan mij ligt dan dan ligt het aan mij
[if it is me then then it is me
29 he dan uh
right then uh
30 DL1: ik denk dat u de vragen een beetje streng stelt;
I think you ask the questions a bit strictly
31 J: ok.
okay.
32 ok
okay
33 >ik weet niet goed
>I don't know exactly

```
34        hoe ik dan hoe ik dan minders streng
          how then I how I should ask them
35        zou moeten stellen,
          less strictly
36        maar eh;
          but eh;
37  S2?   :hm
          hm
38  J:    >laat ik het zo zeggen
          >let me say it like this
39        vertel es wat is er gebeurd Kevin
          tell us what happened Kevin
```

After some troublesome interaction between the suspect and the judge (not included), the judge suggests to the suspect that he talks to his lawyer (lines 1-2). The judge identifies the suspect's procedural attitude as the problem. The judge addresses the lawyer indirectly but when she does not respond (line 6) the judge (after a false start) addresses her directly and asks if the suspect's procedural attitude is what she and her client had agreed on. The lawyer first makes the suspect's feelings relevant (line 15) in a wording similar to what the judge himself had used earlier in the interaction (see extract 10) and counters the judge's potentially face threatening act of not having prepared her client 'well' for the examination (lines 16, 18, 20). The lawyer hence does not go along with the judge in blaming the suspect's procedural attitude for the faltering examination and points out his open procedural attitude up to now (line 20).

From line 21 on, the lawyer returns the complaint. She puts the blame on the judge for asking his questions 'a bit very strictly' (line 21). She manages the face threatening character of this move with the design of her utterance. She starts off with hesitations ('I think', 'a bit') but does end more forcefully with 'in a very strict way', putting stress on both the intensifyer and *strict* and slowing her speech. The choice of the word 'strict' (rather than 'aggressive', for instance) puts the judge's behavior in an educational or parental domain rather than in a legal domain of a cross examiner, which would not fit with the role of a judge which is to be impartial. Hence, she carefully cancels the judge's view that the suspect is being deliberately antagonistic (see also line 18) and instead points to a problematic 'atmosphere of understanding': the suspect is nervous (line 15) and shuts down (line 24) because of the strict manner of questioning by the judge.

The judge treats the lawyer's response as 'news' ('ah') and seemingly unproblematic ('ok') and reformulates the gist as a task for himself (line 25). The 'no no' (line 26) waves aside apologies, the 'I'm happy to hear that' appears to treat the lawyer's comment as a welcome message; a message he can act upon. The judge reformulates the messages ('if it is me it is me') stressing that the problem lies with him (and not, say, the suspect) without saying so explicitly (line 28). The judge demonstrates he wants to do something with the comment but does not know how to (line 33-35), showing that a less strict way of asking questions is not obvious, implicitly justifying his earlier way of questioning and making his earlier line of questioning accountable. The judge, hence, makes a lot of effort in his response to the face threatening act by the lawyer and indeed then ends with an open invitation to the suspect formulated informally (*vertel es*, where 'es' is short for *eens* ('once')) (line 39).

In this extract we see how the judge appeals to the lawyer to get the suspect to change his line of answering. The judge treats the suspect's line of answering as prob-

lematic and puts the blame on the suspect. The lawyer does not go along with this and with some hesitations (line 21) points out that the suspect is very nervous and shuts down because of the judge's way of questioning and hence puts the blame on the judge. The judge appears to go out of his way to accept this and to show himself accountable 'on record' for the emotional impact his questions might have. He treats this as sufficient reason to alter his line of questioning, possibly acknowledging the importance of having an 'atmosphere of understanding' (see also extract 8 where the judge acknowledges the potential stressful situation for the suspect as well as the fact that the trials tend to come long after a crime was committed).

The extracts in this section show that the judge and lawyer take into account the fact that the suspect is a minor and might be nervous or easily intimidated (orientations we have not found in our larger corpus of adult trials). The moves showing of understanding, however, are embedded in the institutional tasks of examining the truth (extract 8 and 9) as well as defending the suspect (extract 9) and hence serve decidedly institutional functions.

Creating both understanding *and* an atmosphere of understanding

Orienting to both the juvenile's understanding of the trial and to an *atmosphere* of understanding are of course not mutually exclusive. If there were no orientation to the understanding of lexicon, utterances and their pragmatic force, and procedures, there would be no basis for creating an atmosphere of understanding. The elaborate explanation of the suspect's rights in court (4.2), for instance, not only aims to explain these rights but also creates an atmosphere of understanding in the sense that it states explicitly that the suspect can ask questions for instance and that the court will repeat and explain where necessary (even though, as discussed, this does make the suspect co-responsible for the understanding). Also the next and last example, extract 10, shows how the judge orients to both the understanding of the procedure which leads to a postponement of the case as well an understanding of what that means for the juvenile.

Extract 10: Explaining procedures while empathizing with the implications for the suspect
(Case 2a, starting at 41:25:2)

1	J:	en daarna willen we eigenlijk de zaak gewoon toch aan gaan houden
		and after that we actually just want to postpone the case
2		uh dan is het de bedoeling dat ergens in september
		uh then it is the idea that somewhere in September
3		uh de zaak wordt behandeld
		uh the case goes to court
4		jullie alle drie dan weer tegelijk
		all three of you then at the same time again
5		ik hoop dat het dan eindelijk wel een keer echt lukt
		I hope that it then finally will go through for once
6		he uhm
7		maar heeft ook wel een beetje als bijkomend voordeel
		but it does have a little bit of an added advantage
8		dat jij wat langer de tijd hebt om beter je best te doen
		that you have some more time to try harder

9 om te laten zien
to show{us}
10 in september dat het echt goed uh gaat
in September that you really are doing well
11 ja
yes
12 misschien is dat vervelend voor jou
maybe that is annoying for you
13 dat je nu niet weet waar je aan toe bent
that you do not know now where you stand
14 he uh
15 maar aan de andere kant
but on the other hand
16 uh moeten wij ook een beetje efficiënt met onze tijd omgaan
uh we also need to be a bit efficient with managing our time

The judge explains that the proceedings will be postponed (line 1-5) and what the time frame will be, making sure that the suspect understands the procedure. Postponement of the case is usually bad news for all involved, but the judge reframes the bad news of postponing the trial as a potential advantage (line 7-10) for the suspect, which also might be seen as urging the suspect to behave himself. The judge shows he is aware of the implication that the suspect then still does not know where he stands (line 13) and shows understanding that the suspect might find that 'annoying' (line 12). And again we see an orientation to the suspect's feelings as well as an orientation to institutional aims (being efficient, line 16). So in this extract, the judge demonstrates an orientation to both understanding and the atmosphere of understanding, as well as the institutional goals. As in extracts 8 and 9 the judge shows that he has a 'double duty' in attending to the suspect's feelings, namely both to come to one version of what happened and to make the judgment in an efficient way.

Conclusion

For most Dutch juvenile suspects courtroom interactions are new or relatively rare types of interaction (Van der Laan *et al.*, 2010) where they have not found routine as they would have with their friends, parents or teachers. Judges, therefore, have an important task, as required by the Beijing Rules, to create a courtroom atmosphere that is conducive to have juveniles understand the proceedings.

In this article we have shown a number of ways in which understanding and an atmosphere of understanding in juvenile courts can be constructed and oriented to by the court. Judges can make the trial understandable for the juvenile suspects by anticipating potentially difficult words and explaining these, providing sample answers when the juvenile appears to misunderstand a question, explaining the suspect's legal rights, explaining courtroom procedures and giving instructions to those present at the trial. Aside from making the procedures understandable for the juvenile suspects, we have also shown how judges can create an atmosphere of understanding, which is subtly present in the various interactional moves, such as the way of addressing juvenile suspects and questioning them. Furthermore, we have shown how this atmosphere of understanding is oriented to by the judge in defending his line of questioning while also acknowledging its potential emotional impact on the juvenile. Our analyses have

shown how the judges (and lawyer) can manage 'understanding' and how this is, in its turn, intricately linked with their institutional tasks.

By analyzing the interaction at a turn by turn level we have shown how 'understanding' is talked into being at a detailed level (e.g. Heritage and Clayman, 2010: 20–32) and how the interlocutors actively create the juvenile courtroom interaction.

Creating understanding and an atmosphere of understanding in interaction is not self-evident. As our analyses have shown, this is done at the micro level of interaction. The juvenile court judge we studied in this article felt strongly about trying to make the proceedings understandable for juveniles and was aware of their vulnerable status. Of course, we are well aware that it is possible that the judge's orientation to understanding may have been influenced by the fact that the trial was being recorded (the observer's paradox). Similarly, it may be possible that judges who agree to be filmed are not a representative sample. However, there was no way around the observer's paradox in this case. Attending a juvenile court case, let alone filming the proceedings, was not possible without informing participants. More importantly, our aim was to explore different ways of attending to 'understanding'.

The question arises of whether this orientation to 'understanding' in actual juvenile criminal trials is a reflection of thoughtfulness and caring on the part of the judge who wants to do "the right thing" or if it is an implementation of less formal ways of talking to more effectively accomplish other institutional goals such as gathering evidence and producing a verdict.[11] Our analyses suggest it is both. The judge proactively and retrospectively addresses issues that have to do with understanding (potentially difficult words, questions and procedures). The judge furthermore orients to an atmosphere of understanding (forms of address, orientations to the suspect's feelings). Both these orientations are linked up with institutional interactional goals and the design of the judge's utterances appear to be such as to minimize adverse response from the juvenile suspect which could complicate and slow the procedures.

Notes

[1]In the Netherlands the term 'verdachte' ('suspect') is used throughout the criminal procedure, including the court proceedings. Although a person is no longer referred to as "suspect" in Anglo-American systems once they are in court (where they are "the defendant" or "the accused"), we use 'suspect' to reflect Dutch inquisitorial system we are describing here (see also Van der Houwen and Jol, 2016).

[2]The statements should be written in 'the suspect's own words' (section 29: 3 Code of Criminal Procedure) but the nature of the interrogation means that this is not necessarily the case. Several authors describe the different stages of development in the process of being elicited, written down and referred to in court (e.g. Jönsson and Linell, 1991; Coulthard, 2002; Komter, 2002, 2003; Van Charldorp, 2011).

[3]Section 301: 4, Code of Criminal Procedure states: Chargeable to the suspect, no attention will be paid to documents that have not been read out loud or of which the short content has not been stated in conformance with section 3. (*Ten bezware van de verdachte wordt geen acht geslagen op stukken, die niet zijn voorgelezen of waarvan de korte inhoud niet overeenkomstig het derde lid is meegedeeld.*)

[4]This way of working has both advantages and disadvantages. One advantage is that it is efficient, because witnesses are not interviewed during the trial. Furthermore, because it can take a while before a case is presented to the court, the police interview is usually faster and witnesses' memories are probably more reliable at that time. A disadvantage is that the legal professionals often do not see the witnesses themselves and therefore need to place a lot of trust in police officers. It also provides them with a lot of (paper) work.

[5]Field notes by Van der Houwen.

[6]'tul' is an acronym for 'vordering ten uitvoerlegging'. This means that the public prosecutor claims/demands that an earlier probationary sentence should be executed after all (section 14g Code of Criminal Procedure). The reason for such a claim is often a new criminal case.

[7]*JOC* is an acronym for 'Jongeren Opvang Centrum' (Youth Rescue/Detention Center). This is a detention center for boys, generally from the age of 12 to 18. Usually they are suspect of a crime or already sentenced.

[8]The use of the present tense in Dutch seems to be similar to the historical present. While the judge is not telling a story, the present tense seems to be used strategically, making what the suspect stated ('states') current to the proceedings. Similar to how articles might be invoked using the present tense to support the argument the author is making (e.g. Johnsen, 1973 finds ….)

[9]A few minutes before this extract, the other suspect in this case offers the first hypothesis (long time ago) on his own account:

S2: nou gewoon
well just
wat ik (xxx) eigenlijk verteld gewoon
what I (xxx) actually just told
(xxx)
(t is ook) zo lang geleden voor mij ennuh
(it's also) been such a long time ago for me and uh
J: ja
yes
S2: ik heb daar niet meer zoveel aan gedacht
I haven't thought of that so much anymore
dus
so
J: ja
yes
nu heb ik t heb ik t natuurlijk van het weekend wel weer zitten
lezen he
now I have of course been reading it again over the weekend right

[10]'Procedural attitude' is a literal translation of 'proceshouding'. It refers to the overall attitude of a suspect during the criminal procedure: does he/she confess/deny/remain silent/show remorse, and is he/she cooperative, willing to work on him/herself, etc. The judge can pay attention to the procedural attitude when deciding on a sentence.

[11]We would like to thank an anonymous reviewer for bringing this up and suggesting we elaborate on this further.

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Appendix I: transcription conventions

Adapted from Jefferson (2004)

(1.5)	silence of 1.5 seconds
(.)	silence shorter than 0.2 seconds
(..)	silence longer than 0.2 seconds
=	no noticeable silence between two sequentially following speaker's turns or between intonation units by the same speaker
over[lap [overlap	square brackets indicate stretches of speech that overlap with stretches of speech in after a bracket in the next line
.	Stopping fall in tone at the end of an intonation unit
;	Slightly falling intonation at the end of an intonation unit
,	Rising, 'continuing' intonation at the end of an intonation unit, not necessarily the end of a sentence
?	Strongly rising intonation (at the end of an intonation unit, not necessarily a question)
Sto-	sharp cut-off to the prior word or sound
stre:tch	The speaker has stretched the preceding sound or letter.
emphasis	the speaker has emphasized the underscored sound, syllable or letter
L̄OUDER	stretch of speech that is produced noticeably louder
>quicker<	stretch of speech that is produced noticeably quicker
<slower>	stretch of speech that is produced noticeably slower
↑↓	marked rise or falling intonational shift within an intonation unit
·h	hearable inbreath
h	hearable outbreath
((comment))	comments by the transcriber
→	specific part that is discussed in the text
(unsure)	the transcriber is not sure about what the speaker says
Translation	translations in English are in italics
{translate}	words between {brackets} have been added to improve the translation