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Article

Contesting the terms of consent: how university students (dis)align with institutional policy on sexual consent

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Abstract

Universities' sexual consent policies remain the focus of national media and government attention in the United States. Affirmative consent (i.e. physical and verbal consent) is increasingly the norm for institutional definitions of consent; yet these policies remain at odds with how students report consenting to sexual activity. In this paper, we examine how students formulate their understanding of sexual consent in ways that either resist or align with their university's policies on sexual assault. Using conversation analysis, we analyse interviews in which students make explicit references to university policy when defining personal definitions of consent. We show that interviewees who do not align with university policy orient to this position as problematic and accountable, and conduct significantly more interactional work when defining consent. These findings illustrate the complex challenges that university students may face in articulating personal understandings of sexual consent, which may have consequences for policy and sexual consent programs.

KEYWORDS: SEXUALITY; SEXUAL CONSENT; CONVERSATION ANALYSIS; HIGHER EDUCATION

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Throughout the United States, universities implement programs that highlight the importance of sexual consent, with the intent to prevent sexual violence against their students. For approximately 60 years, sexual assault has remained a problem among undergraduates in the USA (Kirkpatrick and Kanin 1957; Mellins et al. 2017). The majority of university programs now emphasise the importance of verbal consent (Jozkowski, Peterson, Sanders, Dennis and Reece 2014), also known as *affirmative consent*, in institutional policy. Affirmative consent specifically entails the use of freely given positive verbal statements produced throughout sexual activity free from the influence of alcohol or drugs (Johnson and Hoover 2015). Despite the growing prevalence of affirmative consent policies across universities, such policies remain at odds with how students report consenting to sexual activity (Gronert 2013; Jozkowski et al. 2014). Yet we know little about how undergraduates manage this misalignment between their personal understandings of sexual consent and institutional definitions of affirmative consent.

In this paper we offer a discourse analytic account of how university students formulate their understanding of sexual consent in ways that either resist or align with their university's policies on sexual assault. Drawing on the methodology of conversation analysis, we offer a reanalysis of data originally collected for a study examining how undergraduates evaluate sexual consent (Gronert 2013). The data were taken from interviews in which participants were (1) shown televised scenes alluding to sexual activity and (2) subsequently asked by the interviewer (IR) if they considered the scenes to show consensual sexual activity. We focus on one emergent pattern in the data: the interviewees' (IE) use of explicit references to their university's sexual consent policy in responses to questions regarding the consensual nature of the scenes they have viewed. In each of these cases, the IE, rather than the IR, first references their university and its consent policies. Throughout our data, IEs whose understandings of sexual consent *do not* align with university policy refer to this policy almost immediately in their responses. Such responses are thus what Stivers and Hayashi (2010) refer to as *transformative answers*: a response type that adjusts the terms of the question they have been asked.

Furthermore, such IE responses are formulated using a range of turn construction practices consistent with what conversation analysts have termed *dispreferred responses* (Pomerantz and Heritage 2012) and *defensive mechanisms* (Maynard 2013), both formulations that display defensiveness and/or interactional trouble in claiming that the sexual activity the speakers have seen is, in fact, what they consider consensual. Conversely, IEs whose definitions of consent *do* align with university policy only make ref-

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erence to this policy after they have initially responded to the question; such references to university policy are organised as accounts for the speaker's response that lend authority to their views on consent. Additionally, these latter IEs do not respond to the IR's question with the displays of defensiveness or interactional trouble seen among IEs whose understandings of consent do not align with university policy.

Despite the fact that the majority of IEs did not align with institutional definitions of sexual consent (replicating a pattern in studies of larger student populations, which illustrates this misalignment to be the norm), our analysis shows that IEs who go 'on record' as resisting institutional definitions of consent orient to this position as problematic and accountable. These findings illustrate the complex challenges that university students may face in articulating personal understandings of sexual consent, which may have consequences not only for the moral standing of students whose personal definitions of consent differ from institutional policy, but also for universities' attempts to develop successful sexual violence prevention programs and sexual consent policies.

Institutional policy and students' sexual activity

The sexual consent policies of American universities have been much debated since 1990, when Antioch College passed the first affirmative consent policy, their Sexual Offense Prevention Policy (Sanday 1992). In the years since, affirmative consent has since become the norm for how universities in the United States define sexual consent. We see this not only at the level of individual university policy, but also in state legislation. For example, recently both New York and California required universities in their respective states to use affirmative consent as their sexual consent policy.[1]

The interview data for the present study were collected in September–December 2012, at a time when affirmative consent was entering campus policy discussions and activists were urging the federal government to address university sexual assault. Under the Obama administration (2009–17), increasing numbers of students, faculty and other stakeholders filed Title IX complaints to pressure universities into changing their responses to sexual violence (Somanader 2014; Suran 2014). The Office for Civil Rights currently has 305 open Title IX investigations (Chronicle of Higher Education 2019). In response to the massive increase in Title IX complaints against American universities, the Obama administration launched the 'It's on Us' campaign and the Not Alone Taskforce in 2014 (Somanader 2014; Suran 2014). Under the Trump administration, sexual violence on campus

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has remained a contentious issue. Most recently, in November 2018 education secretary Betsy DeVos released proposed Title IX regulations after rescinding Obama era Title IX guidelines in September 2017 (Department of Education 2018; Saul and Taylor 2017).

While debates over policy solutions to campus sexual violence continue, research over the last decade has found that many undergraduates' sexual interactions are not consistent with affirmative consent policies. For the purposes of the present study, two particular tensions emerge between undergraduates' sexual interactions and university consent policies. First, research shows that 'alcohol-centred events' facilitate college hookups – the practice of non-romantic, casual sexual activity encompassing a range of sexual behaviours (Bogle 2008:47; Wade 2017). Consequently, university party culture and hookup culture normalise sexual activity under the influence of alcohol, constituting one tension between institutional policies and students' own sexual scripts. The second tension lies in the use of verbal consent. Research has found that undergraduates report eschewing verbal consent and instead initiate sexual activity and display sexual consent strictly through non-verbal signals (Hickman and Muehlenhard 1999). Students additionally describe verbal consent as awkward and report that it 'ruins the mood' (Humphreys 2004:219; Cameron 1994). Recent research also reveals that undergraduates most often report interpreting their partners' consent to sexual activity via non-verbal cues (Jozkowski et al. 2014).

Given the widespread misalignment between institutional policy and student understandings of sexual consent, there is a growing need for research to address how students understand this misalignment. The present analysis contributes to this goal through a discourse analysis of interviews in which university students discuss their personal definitions of consent with a student interviewer. By examining the linguistic and interactional construction of these definitions, we show how undergraduates display significant trouble when explaining how their own understandings of sexual consent differ from university policy, despite the fact that the students' definitions of sexual consent align with the majority of other undergraduates in the United States. We follow this with a brief discussion of the relevance of these findings for possible interventions.

Data and methods

The data for this analysis are taken from audio-recorded interviews with 19 undergraduates at a private liberal arts college in the USA. The first author administered these interviews as an undergraduate enrolled at this college. The interviews were semi-structured and organised into three phases. First,

IEs were asked questions about their television habits and the sexual activity they had observed in the television programs they watched. Second, IEs were shown the same four scenes from scripted television programs that featured interactions between characters that alluded to sexual activity.[2] Lastly, IEs were then asked about character interaction during these scenes, whether they considered the sexual activity to be consensual, and how they defined sexual consent more generally. The question-answer sequence that we focus on, 'Are the characters consenting to have sex with one another?', occurred in this final phase of the interview. Interview data were transcribed using the conventions of conversation analysis (Hepburn and Bolden 2012).

The interviews were conducted in 2012 at a college we refer to using the pseudonym 'Westie'. From August 2009 to May 2012, Westie enforced an affirmative consent policy whereby consent had to be both 'verbal and physical'. This policy was revised shortly before data collection for the present study began, with sexual consent being defined as either 'verbal *or* physical' consent. However, for many students, this was a relatively silent policy change. The first author for this study, a student at Westie during data collection, reports that most students remained unaware of this change in sexual consent policy. To be sure, the IEs for the present study – with the exception of Jack, whose talk we examine in Extract 6 – demonstrate unawareness of the policy change as they refer to the university's former affirmative consent policy as if it were still current policy.

The participants were recruited through an event posting on Facebook, an advertisement in the college's daily email digest and posters in residence halls. Interviews occurred at a private location of the participant's choice. The volunteer sample consisted of seven men and twelve women; six were sophomores, seven were juniors and six were seniors. All but two students identified as heterosexual. We have limited our analysis to the six IEs whose responses to the question, 'Are the characters consenting to have sex with one another?' explicitly referenced Westie's consent policy.

To examine the interaction in these interviews we draw on the methods of conversation analysis, an analytic framework concerned with the interactional and sequential organisation of language as social action. In prior work, Kitzinger and Frith (1999) use conversation analysis to examine sexual scripts regarding the practice of refusing sexual activity, demonstrating how 'Just Say No' educational interventions are at odds with how speakers formulate refusals both in social interaction more generally and during moments of sexual activity. Similarly, Tainio (2003) uses conversation analysis to examine a recorded phone call that Finnish newspapers and a court labelled sexual harassment, finding that refusals to sexual harass-

ment are formulated similarly to respondents' descriptions of sexual refusals examined by Kitzinger and Frith's (1999) findings. Within the larger field of language, gender and sexuality research, scholars such as Ehrlich (1998, 2001) have additionally examined the language of consent in court cases and university tribunals, finding that such discourse may implicitly condone sexual violence against women.

The present analysis builds on prior work in these areas by examining how university students formulate their understandings of sexual consent as either resisting, or aligning with, institutional policy. Specifically, we explore the types of interactional work accomplished by these students as they engage in unprompted comparisons between their personal stances and university consent policy in the interview setting. We further investigate the turn constructional practices adopted by IEs whose personal definitions of sexual consent disalign with university policy, namely how such IEs deploy dispreferred response markers and defensive mechanisms that orient to the potentially problematic and accountable nature of their understandings of sexual consent (despite this understanding being the norm for most undergraduates in the USA). We then compare these response formats with those from IEs whose stances toward sexual consent do align with university policy.

In the following sections, we define and provide examples of the conversation analytic concepts of dispreferred responses and defensive markers, and we examine cases from students whose responses to interview questions either resist or align with institutional definitions of sexual consent.

Resisting institutional definitions of sexual consent

In this section, we examine cases in which IEs display their resistance to institutional definitions of consent. We see this in Extract 1 below, taken from an interview with a student named Hal. The question-answer sequence we focus on begins at lines 1–2, as the IR asks, 'Does it seem like the characters are consenting to have sex?' In terms of its lexical and grammatical composition (or *lexico-syntax*), the IR's question is formulated as a yes/no interrogative with positive polarity, and it thus invites agreement as a preferred response (Heinemann 2005; Koshik, 2002; Pomerantz and Heritage 2012). By *preferred response*, we mean that the IR's response aligns with the action trajectory of the prior turn (that is, a question garners an answer) and expresses agreement with the underlying premise of the question (in this case, a 'yes' response). Conversation analytic research investigating the preference structure of talk-in-interaction has shown how preferred responses are formulated in a structurally distinct manner from dispre-

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ferred responses (Pomerantz 1984a; Pomerantz and Heritage 2012). Thus preferred responses are normatively produced directly and without hesitation while dispreferred responses are instead delayed in their production and mitigated in various ways, as through the use of accounts or apologies.

Returning to Hal's interview, we see that Hal's initial response to the question is delayed by multiple pauses, a tongue click (Ogden 2013) and the token 'um' (Schegloff 2010), all of which project the dispreferred, non-conforming response that follows at line 6. Thus while Hal does eventually produce an on-record agreement with the premise of the IR's question – a structurally preferred (or 'yes') response, as he claims that the characters in the scenes are consenting to have sex – his initial response to the IR's question as formulated as if it were a dispreferred response:

Extract 1
Interview 6: Hal [36:55]

```
01   IR:    And the:n, u:m, so:, when you >were<
02          looking at the:se scenes so: um does
03          it seem like the characters are
04          consenting to have sex?
05          (0.5)
06   Hal:   tch. (1.0) U::m. (1.0) Not according
07          £ta Westie£ HEHH[h .hhhh
08   IR:                    [hh .HH
09          [£>well what< about according to you:£.=
10   Hal:   [Uh::
11   Hal:   =AH::, (1.0) eh:yea:h, (1.6) yea:h,
12          (0.7) I'd say so:.
13          (0.2)
14   Hal:   I mea:n it's because like they bo:th
15          .hh for example it's like ya know, in
16          the first one it's like well yeah: but
17          I like kissed you ba:ck y'know >it's
18          like< one of those things where >it's
19          like< well I did something, .hh but you
20          also did something it's like, ((bumps
21          table)) .hh I feel like there's some sort
22          of level of, of: back and forth that
23          (1.4) kinda ma:kkes it acceptable.
24   IR:    Mhm.
25   Hal:   Which allows for consent I guess.
```

Though the interrogative construction used by the IR ('does it seem') is potentially ambiguous in scope given that it does not explicitly ask after Hal's personal views, prior questions from the IR were formulated with this same lexico-syntax, and Hal's prior responses have consistently articulated

his personal understanding of sexual consent. Given this larger sequential context as well as the institutional nature of the interview setting, the IR's question at lines 1–4 is arguably hearable as eliciting Hal's personal views. Yet Hal responds to the question with a transformative answer referencing college policy rather than articulating his personal understanding of consent, which he has not discussed in the prior talk.[3]

Following the initial delays in his response, at lines 6–7 Hal responds to the IR's question by asserting that, 'according to Westie', the scenes he has viewed do not show consensual activity. Raymond's (2003:954) work on yes/no interrogatives (YNIs) shows that, in answering a YNI, the use of a *non-type-conforming response* (an answer other than 'yes' or 'no') is 'dispreferred, noticeable, and eventful'. By invoking his college rather than providing a clear yes/no response to the question, Hal's initial response is not only formulated to be non-type-confirming (and thus dispreferred), but additionally obscures his personal understanding of the scenes as consensual. Hal's response at lines 6–7 also includes laughter organised just as his turn ends. Shaw, Hepburn and Potter (2013:102) describe how this *post-positioned* organisation of laughter serves to 'soften the hearability of possible interactional trouble … suggested by delay following a hearably disaligning or disaffiliative action', and such laughter displays Hal's orientation to the potentially accountable and/or problematic nature of his response.

After the IR specifically asks for Hal's personal evaluation of the scenes (line 9), Hal again delays his turn through such turn-initial silences and the particle *ah*. Though Hal initially responds to the IR's question with positive response tokens ('yeah, yeah'), he downgrades his response through the modal construction 'I'd say so' (lines 11–12). This is followed by the 'account work' (Rapley 2001) that is typical of interview interaction, as IEs treat their responses to an IR's questions as being in need of elaboration and explication. Notably, Hal prefaces his account with the phrase 'I mean', described by Maynard (2013) as a 'defensive mechanism' that here positions Hal's response as not only in need of accounting, but also in need of defending. Hal brings his response to a close with a new response to the IR's question from line 9, shifting his initial response of 'yeah, yeah … I'd say so' (lines 11–12) to 'that kinda makes it acceptable … which allows for consent I guess' (lines 23–5), now epistemically downgraded with the modal 'kinda' and the hedge 'I guess' (Kamio 1997).

Despite the fact that Hal produces a structurally preferred response to the IR's original question (as he *does* believe that the scenes show consensual sex), his response is delivered as if it was in fact dispreferred. Hal's turns at talk are (1) delayed by numerous silences and turn-initial particles, (2) formulated as a non-type conforming and transformative response through an

initial invocation of Westie's policy, (3) oriented to as accountable through Hal's use of laughter and defensive mechanisms, and (4) downgraded throughout using modals and other hedges. Rather than orienting to the broader structural preference organisation of the question-answer sequence, we argue that the dispreferred format of Hal's response instead orients to his understanding that the broad definition of sexual consent he displays here may reflect moral shortcomings – even despite the fact that this understanding of consent is held by a majority of undergraduates in the USA.

We see a similar use of a dispreferred and non-type conforming response in Extract 2, taken from an interview with Alice. The question-answer sequence proceeds in a similar way to that seen in Extract 1. Here, in lines 1–4 the IR again asks a YNI with positive polarity that projects agreement, and Alice responds by referencing the university's definition of sexual consent in lines 6–9.

Extract 2
Interview 14: Alice [49:38]

```
01  IR:   .hhh And so when you're watching um
02        each of these th- scenes, do you
03        think the characters are consenting
04        to have sex with one another?
05        (0.6)
06  Ali:  I mean not according to like the
07        Westie definition:=I'm pretty sure
08        according to the Westie you're supposed
09        to say do you wanna have sex. Yes:,
10        .hhhh so: according to that no::? But at
11        the same ti::me .HHH HHHHH. (1.0) like,
12        (0.4) both people seemed to go for it at
13        the same time there wasn't any scene
14        where one person like .hhh (1.0) grabs
15        the other person without the other person
16        li:ke, (1.0) kn:owing or like kissing
17        ba::ck. (.) .hhh (0.6) Yea:h- but I also
18        feel weird saying that according to
19        Westie's li:ke, (0.6) °you hafta° exa- uh
20        ya know explicitly say ye:s. (.) .hhhh
21        (0.8) But at the same time if both people
22        initiate it then it's li:ke, (0.8) who:'s-
23        asking who's saying ye:s=they're both a-
24        asking they're both saying ye:s kind of
25        by: (.) the different things in the
26        different sce:nes .hhh=
27  IR:   =Mhm.
28  Ali:  (And) yeah:.
```

Alice's response is delayed by a noticeable pause, and at line 5 Alice produces a non-type conforming and transformative response as she asserts that the scenes are not consensual according to Westie's policy. As with Hal's response from the prior excerpt, Alice's response effectively obscures and delays her own evaluation of the scene, and Alice's response is similarly prefaced with a defensive mechanism ('I mean'), suggesting that disagreeing with campus policy may be a potentially risky or accountable action in need of defending.

At line 6, Alice accounts for why the scenes are nonconsensual according to university policy. Here she downgrades her claims to knowledge regarding the university's policy, stating that she is only 'pretty sure' of its terms. At lines 7–8, Alice employs constructed dialogue practices to voice the university's sexual consent policy, and closes her discussion of college policy at line 9 using a gist formulation (Heritage and Watson 1979) of her prior talk, 'according to that no'. Beginning in line 10, Alice describes her personal evaluation of the scenes as consensual, prefacing this action with an audible sigh. Hoey (2014) has shown that speakers routinely employ sighs before a turn of talk in order to project a forthcoming dispreferred response, and Alice's sigh projects her disagreement with Westie's sexual consent policy and marks it as being, in some way, dispreferred.

At lines 10–16, Alice accounts for her evaluation of the scenes as consensual, and at line 16, Alice explicitly orients to the accountability of her stance toward the consensual nature of the scenes by saying that she 'also feel(s) weird saying that according to Westie's (policy)'. This utterance contrasts her personal definition of consent with college policy, and acknowledges the accountability of her personal definition. At lines 17–19 Alice refers to the university's affirmative consent policy by explaining someone has to 'explicitly say yes', though she again distances herself from this definition in line 21 as she prefaces her next unit of talk with 'but at the same time' and goes on to claim that *mutual* physical activity is equivalent to verbal consent ('if both people initiate it then it's like … they're both asking they're both saying yes kind of').

Similar to Hal, we thus see that Alice produces a structurally preferred response to the IR's question (i.e. a 'yes' response to a positive polarity yes/no interrogative) but formulates her turn with multiple dispreference markers: her response is delayed by numerous silences and particles, formulated as a non-type conforming response through immediate reference to Westie's policy, marked as accountable through defensive mechanisms and signs, and downgraded throughout using modals and other hedges.

In Extract 3, Chad's answer shares features of both Hal and Alice's responses. The question-answer sequence follows a similar structure to Extracts 1 and 2, and at lines 4–7 Chad responds by explaining Westie's policy.

Extract 3

Interview 15: Chad [50.10]

```
01  IR:    And s:o (0.8) tsk when you're
02         watching these sce:nes, are the
03         characters consenting to have sex in
04         sex in each sce:ne?
05         (0.8)
06  Chad:  Uh: >if we're< going by ↑Westie's
07         definition >of consenting to have sex<
08         then I would=no:. None of the- eh=none
09         of the:m: (0.2) none of them actually
10         s:poke the wor:ds.
11         (0.2)
12  Chad:  [Do you want it. Is this ok.]
13         [((pounds hand on table as beat gesture))
14         (0.2)
15  IR:    mhm=
16  Chad:  =A:nd there was never a n- >a ye:s<
17         or a no: or even a maybe so:=like there
18         is .hhh (.) (>you can<) sort of a i-
19         (2.0) guess: by body language? But there
20         was very much no:t an actual like
21         s:entence of °do you want it. is this
22         okay:°. (.) .hhh [Yeah
23  IR:                     [And so like, if you go
24         by like (.) howe:ver you want to define
25         consent, do you think they're consenting?
26         (0.8)
27  Chad:  u:hh HHH I would say: I- I: mean I
28         HHH ye:s. I would say I guess >th- th-<
29         each of the characters:, by:- they
30         seemed to be consenting. Yes >by body<
31         (lang/like) if we're going by I'll go by
32         body language in this one then ye:s °they
33         seem to be (it it's) co:nsenting you know.°
34  IR:    mhm
```

Chad answers the IR's question by stating, 'if we're going by Westie's definition of consenting to have sex … no', and goes on to explain how the scenes are not consensual according to university policy. As with previous excerpts, Chad's response is formulating with numerous delays (silence, the particle 'uh') that project his dispreferred and transformative response. Like Alice in Extract 2, Chad uses constructed dialogue at lines 12 and 21–2 to demonstrate his knowledge of what affirmative consent practices would actually look like, a strategy that delays his articulation of his own understanding of the scene until line 27, after the IR prompts him to do so by reformulating her initial question. Following a short pause, Chad again

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delays his response with a hedge ('uh'), numerous restarts ('I would say. I would say), and the defence mechanism 'I mean', (I mean, yes'.). The additional prompts from the IR and turn-initial delay are similar to Extracts 1 and 2, and as with Alice in the prior excerpt, Chad's audible sighs at lines 27–8 display an orientation to the dispreferred nature of his forthcoming response. Each of these turn-constructional features displays Chad's orientation to his response as being in some way dispreferred, accountable, or risky, despite the fact that he is ultimately responding with a structurally preferred response to the IR's yes/no question.

Extract 4 is from an interview with Amelia. In contrast to the previous three cases, Amelia's response to the IR's question does not immediately make reference to Westie's affirmative consent policy. Rather, Amelia references the college's policy as one of a number of perspectives that would categorise the scenes as non-consensual. However, as with the prior excerpts, Amelia's response is formulated with numerous dispreference markers, including lengthy silences and turn-initial objects (e.g. 'uh', 'hmm') that delay her response. Amelia's trouble in responding is further displayed through an instance of other-initiated repair (Robinson and Kevoe-Feldman 2010) that locates some trouble in the IE's understanding of what is meant by 'consent'. As with the prior examples, Amelia also responds to the IR's question by withholding her personal understanding of the consensual nature of the scenes, and offers this information only when prompted by a follow-up question from the IR.

Extract 4

Interview 12: Amelia [58.32]

```
01  IR:    .hhh And so: (0.2) u::m. (1.5) when
02         you're watching these sce:nes (.) °u:h°
03         do you think the characters are
04         consenting. ↑to have sex with one
05         another?
06         (2.0)
07  Amel:  U:h °I guess°,(1.0) like what's your
08         definition of consent.
09  IR:    >However-< it's based on however you
10         define consent.
11         (.)
12  Amel:  °Hmm°. (0.8) >Well like< technically
13          in like a: general sense, ye:s they all
14         consented. (0.2) Cause none of them said
15         no:, (.) bu:t- at the same ti:me, (0.6)
16         if we look at some of the influences?
17         y'know 'specially >the last two: °where<
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18          alcohol was very (0.8) °prevalent° u:m.
19          (0.8) some people would be wary to say
20          that- (0.2) they consented. °I guess°.
21          (0.2)
22          U:m (0.7) >so I guess it< just mostly
23          depends on- (1.0) the definition of
24          consent for each °person°.
25          (0.2)
26          You know if some people >like for
27          example Westie<, (0.5) Westie's policy
28          is tha:t (.) if alcohol is involved? at
29          all? it's considered >rape<, (0.5) u:m so
30          that's not consent? Um so >Westie will
31          probably say that< the last two scenes
32          were not- (.) °you know° consensual.
33          .hhh u:m (1.0) But in ter:ms o:f (1.0) I:
34          guess: just everyone else who believes
35          that consent is like (.) 'oh you didn't
36          say no:?' (0.2) Then- (.) °yeah I guess
37          all of them were consensual:°.
38          (0.5
39   IR:    An- and like do you consider them
40          ↑consensual?
41          (0.6)
42   Amel:  ((lip smack)) ↑U::h, HHH (1.6) £↑I
43          don't know.£ HEH .hh I'm no- I'm not
44          exactly sure where I sta:nd in terms of
45          (0.2) consent. And the idea: of consent,
46          u:m, (1.0) I guess >I mean< I: >totally<
47          I understa:nd We- Westie's policy, and
48          to some extent I agree with it?
49          (0.7)
50          U:m, (0.4) >but I don't-< I don't think
51          I would judge all of those as:, (0.2) I
52          don't think I would judge the last two as
53          being °nonconsensual°=>I think I would
54          judge all of them as being °consensual°.<
55   IR:    °Mhmm°
```

Though Amelia initially responds in the affirmative, her response is epistemically downgraded (Kamio 1997) through the formulation 'I guess'. Following another silence, Amelia then initiates an other-initiated repair sequence (lines 7–8) that retrospectively treats the IR's use of the word 'consent' as a trouble source in need of further clarification and displays further trouble in responding: 'like what's your definition of consent'.

At lines 9–10 the IR completes the repair by clarifying that the initial YNI is eliciting Amelia's own understanding of consent. Amelia's subsequent turn at talk is again delayed by silence and various particles ('hmm',

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'well', 'like') before she responds to the initial YNI, 'Well like technically, like in a general sense'. At line 9, Amelia offers more a more detailed definition of sexual consent that aligns with mainstream understandings of consent ('they all consented cause none of them said no'), offering a 'no means no' definition that is the primary frame (Goffman 1986) for consent education prior to affirmative consent (Kitzinger and Frith 1999).

Amelia's response next turns to possible 'influences' that may complicate definitions of consent, for example, raising the issue of alcohol being of possible relevance to whether consent was given. Both of the scenes that Amelia references here showed characters in party situations where one or both characters were visibly intoxicated. Amelia then provides an upshot formulation (Heritage and Watson 1979) of her prior talk that distances herself from this understanding of sexual consent, positioning it as a view held by 'some people' but, ostensibly, not her (lines 19–20). This is followed by an incremental extension of her turn consisting solely of the epistemic marker 'I guess' produced at lower volume, an epistemic downgrade that displays only a limited understanding of this particular definition of consent and thus distances her further from the idea that alcohol consumption was relevant to the production of sexual consent, and further delaying disclosing her personal understanding of sexual consent.

At lines 26–7, Amelia introduces Westie's institutional policies regarding sexual consent. As with the prior three excerpts, it is the IE, rather than the IR, who first mentions the university's consent policy. Amelia introduces the university through the formulation, 'some people, like for example, Westie' which not only distances her own stance from that of 'some people' but also from her university. In lines 27–30, Amelia explains Westie's sexual consent policy as it pertains to alcohol, offering a (mis)understanding of university policy when she says, 'Westie's policy if that alcohol is involved at all it's considered rape'. In lines 35–6, Amelia ends her comparison between mainstream understandings of sexual consent and Westie policy by providing another example of the lay definition ('I guess just everyone else who believes that consent is like 'oh you didn't say no?' Then I guess yeah all of them were consensual').

The IR asks a second YNI at lines 39–40 that specifically asks for Amelia's personal understanding of consent. Amelia's response is delayed by multiple pauses, an 'um' and an audible sigh, while the answer itself is hedged with an initial 'I don't know' followed by post-positioned laughter that (Shaw, Hepburn and Potter 2013) that may display her orientation to the fact that 'I don't know' is a typically an insufficient, disaligning response within an interview context. It is not until lines 49–50 that Amelia explicitly states her evaluation of sexual consent in the scenes.

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As each of the excerpts above illustrate, Hal, Alice, Chad and Amelia's responses to the IR's question resist Westie's sexual consent policy, suggesting that views of sexual consent on this university campus are contested by students. While Hal, Alice, Chad and Amelia were part of the *majority* of IEs who classified all the scenes as consensual, each of these speakers display significant interactional trouble in articulating this stance to the IR, as evidenced through the production of their turns with numerous dispreference markers and through transformative answers that reference institutional policy and obscure their own stance toward the clips they have seen.

We argue that the production of these IE's responses show a demonstrable orientation that their responses may carry some interactional and social accountability beyond just the immediate, lexico-syntactic context of the question-answer sequence. Instead, the dispreferred formulation of these responses are tied to the issue of these students going 'on-record' as having a broader understanding of sexual consent than institutional policy allows for. In Hal and Chad's case, given the relevance of gender to personal and dominant understandings of what constitutes sexual consent, we hypothesise that the interview context may have further contributed to Hal and Chad's reluctance to respond with their personal definitions of sexual consent, as the IR was a female peer, despite the fact that they do not demonstrably orient to the relevance of their gender (Stokoe and Smithson 2001) during the spate of talk analysed here.

Aligning with institutional definitions of sexual consent

Next, we show how students who align with institutional definitions of consent also explicitly reference university policy in their responses to the IR's question. In these cases, IEs *do* align with institutional definitions of consent by referencing them in the midst of the account work that is typical of IE responses (Rapley 2001). This displayed alignment with university policy lends authority to the IE's responses and allows them to display their considerable knowledge of institutional definitions – not simply mainstream understandings – of sexual consent. In contrast to the data examined in the prior section, these IEs do not make use of transformative answers, and thus display none of the resistance to the terms of the IR's question seen by speakers whose views do not align with university policy.

In Extract 5, taken from an interview with Jean, the IR's question again invites agreement as a preferred response that elicits Jean's personal understanding of sexual activity. Jean's response to this question is delayed by both silence and the token *uh*, both turn constructional components that

project her disagreement at line 5 ('no'). Following the silence at line 6, she offers a clausal expansion at line 7, adding 'I don't'. In contrast to the cases examined in the prior section, then, Jean's dispreferred response formulation may be understood as an orientation to the structural preference for agreement (Pomerantz 1984a), as she offers a negative polarity response to the IR's yes/no question.

Extract 5

Interview 5: Jean [48:44]

```
01  IR:    .hh And the:n u:m, (1.4) so: in the- in each of
02         these scenes, do you consider: um the sex to be
03         consensual? like you personally °d'you°
04         consider °it°?
05         (0.8)
06  Jean:  U:::h no.
07         (1.0)
08  Jean:  I don't. Cause ↑I think the Westie policy is
09         pretty goo:d.=I don't know about the alcohol
10         part?=cause like if you're in a r- (0.8) like
11         ma~rriage(0.4) you're gonna be under the
12         influence. You kno:w like s- (0.5) bu:t (1.0)
13         °I think verbal a:nd physical is a very good
14         thing.=And I didn't hear- verbal consent out of
15         any of those. So I don't think it's consensual
16         (0.6)
```

In the talk that follows, Jean positions herself as being in alignment with Westie's policy through positive assessments of the broader policy ('pretty good', line 9) and more specifically its inclusion of both verbal and physical consent as ('a very good thing', lines 13–14). Jean's use of multiple assessments during this account work also demonstrate her clear epistemic access to the university's definitions of consent, as these actions demonstrate that Jean has sufficient knowledge of the university's policy to evaluate it (Pomerantz 1984b). In demonstrating this epistemic access, Jean displays that she is more than just a 'lay' person, and this displayed expertise lends credibility to her own stance toward the scenes as portraying non-consensual activity.

Jean further demonstrates her knowledge and expertise through the use of such terms as 'verbal consent' and 'physical consent' (lines 13–14), technical terms that also appear in the university's sexual consent policy. At the time of the interview, Jean worked as a university resident advisor who had received frequent training regarding the university's definition of sexual consent, and thus Jean's use of these terms is potentially analogous to the use of similar technical terms by institutional representatives (e.g.

doctors, courtroom judges) to ‘talk these identities into being’ (Heritage 2004). Through the interactional practices detailed here, then, Jean lends institutional authority to her own response, and demonstrates her expertise in matters related to the issue of defining sexual consent.

A similar alignment with university policy can be seen in Extract 6, which is taken from an interview with Jack, whose response to this question is formulated with multiple turn constructional practices that display his strong disagreement.

Extract 6

Interview 18: Jack [39:06]

```
01   IR:     .hhh And so:, when you’re watching these
02           sce:nes, u:m:. Are the cha↑racters consenting to
03           have se:x with [one another?
04   Jack:                  [No:. hhh ↑No:! hh No
05           >but I mean< if they follow Westie’s policy, I’m
06           just sayin. Um physically yea:h they are: like,(.)
07           in terms of (0.6) certai:n: things: like, when hh
08           like even though like the girl’s forcefully
09           kissed, (.) like (1.0) ((stylised voice)) she
10           kissed ba:ck and therefore it’s oka:y and that’s
11           physical conse:nt. U:m: and like the other girl
12           was verbally saying like all these thi:ngs that
13           like (0.6) made <it seem like it was totally
14           conse:nsual=and everyone was li:ke, (.) to:tally
15           fi:ne> with it but there >was no< like (stop/stock)
16           moment that- (.) whether it was awkward or no:t,
17           they say like no: like I wanna have sex with
18           you.=O:r, .hhhh can I kiss you or li:ke, (.) there’s
19           no:thing. There’s like nothing verbal that’s
20           really use- l- n- no there’s nothing >verbal<
21           specifically said that like. Directly states
22           what the intentions and what is going to happen.
23           .hh There’s nothing physica:l:, (0.5) that is
24           don:e? (.) prior to: it like happening,=and like,
25           (0.6) the person responding- who that person
26           (is who) had the actions being done upon like
27           responding? .hh in a positive way?=There’s no
28           like, oh: like I’m gonna touch your le:g like
29           there’s no like simple like, (0.8) there’s just no
30           nothing like it’s just a direct like kiss and then
31           from the forceful kiss or the forceful like,
32           .hh violent interaction that becomes like this
33           animalistic ↑thing=like it goe:s straight into:
34           (.) the sex and like there is no consent that is
35           like displayed on T-V. Or like in these clips.
36           Specifically.
```

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While the lexico-syntax of the question invites Jack's agreement as a preferred response, Jack's disagreeing response is neither delayed nor mitigated by dispreference markers (Pomerantz 1984a) and is in fact produced in partial overlap with the IR's question. The readiness with which Jack responds, taken together with the formulation of his response using multiple negative response particles punctuated by laugh tokens ('No:. hhh ↑No:! hh No'), thus contributes to Jack's response being heard as doing particularly strong disagreement with the question.

Next, Jack positions himself as aligning with the Westie's definition of consent by distinguishing between verbal and physical consent. Similar to Jean (Extract 5), Jack had undergone sexual consent training through his university, and thus his explicit references to 'verbal' and 'physical' consent may also be a way of talking this institutional authority into being.

Jack relies on constructed dialogue to contrast lay understandings of sexual consent with his own definition of consent. Jack produces two episodes of constructed dialogue to voice a mainstream definition of physical consent being understood as sexual consent: 'she kissed ba:ck and therefore it's oka:y and that's physical conse:nt' and 'totally conse:nsual' (lines 9–11 and 13–14).[4] Jack marks this episode of constructed dialogue through voice quality and other phonetic features (Chun and Podesva 2010), most notably the use of breathy voiced and post-tonic lengthening. Jack then articulates as contrasting view of sexual consent as he asserts that there was no 'stock moment' in the scenes in which the characters produced verbal consent (lines 15–31). Jack again provides examples of constructed dialogue, demonstrating what verbal consent could have sounded like in the scenes. Notably, these episodes of constructed dialogue are not produced with the same phonetic features as those seen in lines 9–14, which positions them as reflecting his own stance rather than that of an imagined other.

Though Jack (Extract 6) and Jean (Extract 5) both align with institutional policy in their responses, their personal definitions of sexual consent contrast with the dominant understandings of sexual consent exhibited by their peers – a fact that Jack appears to orient to as he voices a 'typical' student's understanding of sexual consent through constructed dialogue (lines 9–14), and as he notes that affirmative consent may be 'awkward' to obtain (line 16). Yet in examining Jack's and Jean's responses in Extracts 5 and 6, we see that they do not exhibit the same degree of delay or interactional trouble in responding displayed by the students in Extracts 1–4, despite the fact that Jack and Jean offer structurally dispreferred responses to the IR's question.

Conclusion

Why, then, do IEs such as Hal, Alice, Chad and Amelia display a difficulty in responding that Jean and Jack do not, especially considering that Jean and Jack's responses are structurally dispreferred? We argue that, in the interview context examined here, questions that interrogate university students' personal understandings of sexual consent may entail risks in how students elect to respond. Such risks arise from the disconnect between the dominant understandings of consent among undergraduates and the affirmative consent definition encoded in institutional policy (Hickman and Muehlenhard 1999; Jozkowski et al. 2014). As universities increasingly adopt affirmative consent policies and implement sexual consent interventions, the changing face of institutional consent policies may contribute to students' perception of these risks. In displaying the stance that the televised scenes the students have watched *do* illustrate consensual sexual activity, students like Alice and Hal risk portraying themselves as having overly broad understandings of sexual consent that may have moral consequences. By extension, claiming such broad personal understandings of sexual consent may lead others to infer that the student participates in sexual activity that is non-consensual in the eyes of both their university and the law. This may be especially true for Hal and Chad, who, as heterosexual male IEs speaking with a female IR, are likely aware of the different consequences faced by men and women who violate both legal definitions of, and local members' understanding of, sexual consent. The risk that such responses carry thus explains why Hal, Alice, Chad and Amelia all immediately respond through references to institutional policy to demonstrate that, while their own stances may differ from institutional policy, they have sufficient knowledge of university policy to disagree with it. Conversely, while Jean and Jack take up a minority position in agreeing with institutional definitions of consent, the risk they face in responding this way is relatively low, as they largely risk coming off as overly 'strict' rather than bad citizens or even sexual predators.

As the analyses above demonstrate, university students face complex challenges in articulating their personal understandings of sexual consent. A greater understanding of these consequences will help the development of effective institutional policy and sexual consent programs, especially as universities continue to endorse affirmative consent policies. Current campus sexual assault prevention programming has limited impact on students (Jozkowski, 2015; McMahon, Wood, Cusano and Macri 2018), and research about the disconnect between some students' personal understandings of consent and the affirmative consent standard is useful for campus officials who implement sexual assault prevention initiatives

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(Muehlenhard, Humphreys, Jozkowski and Peterson 2016). Telling students to obtain sober and verbal consent without additionally providing these students with an understanding of *why* affirmative consent matters may create an atmosphere where students like Alice, Hal, Chad and Amelia feel uncomfortable voicing their thoughts about consent, and may explain why these students resort to citing university policy as a rote means of displaying their knowledge of university policies without demonstrating an understanding of why such policies matter. Our findings suggest that effective programs would create space for student discussions about consent so students feel invested in, and more fully understand the impact of, campus consent policy.

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Notes

1. NY State Senate Bill S5965 (2015), available at www.nysenate.gov/legislation/bills/2015/s5965, and Student Safety: Sexual Assault, §67386 (2014), available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=67386.andlawCode=EDC. The New York law applies to all private universities while the California law applies to private universities who receive state funding.
2. The first author selected the scenes by identifying the top 30 television shows on the Internet Movie Database (IMDb) website during September 2012. This list was narrowed by selecting shows that featured characters that were close in age to the undergraduate participants and aired on network television, meaning they were more easily accessible. The first author then identified scenes suggesting sexual activity from this short list of programs. Ultimately, she selected four scenes from *Grey's Anatomy*, *Gossip Girl* and *The Vampire Diaries*.
3. The interviewer's questions also did not reference university policy in any way.
4. The 'mainstream' understanding of sexual consent that Jack voices here parallels the stances taken by Hal, Alice and Chad as they formulate their own understandings of sexual consent.

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