INTERVIEWS & INTERROGATIONS
THE METHODOLOGY OF INTERVIEWS & INTERROGATIONS

GPSTC Rules

- Review Rules
- Silence Cell Phones / Etc...
- No Food & Drinks in Classroom
- No Tobacco Products in Classroom
- No Inmate Contact

Course Requirements

- Students have been provided slides and handouts via the GPSTC website prior to class.
- Students will review actual interviews / interrogations of suspects and critique them looking for changes in body language and listening for verbal indicators of deception.
- Students will participate in practical exercises in class – interviewing each other as a witness.
- Homework
Course Requirements

• Test – 20 questions
• To graduate, students must obtain at least a 70% passing score at the end of the 24 hour course of instruction on a twenty question multiple choice written examination.

QUESTIONS?

Enabling Objectives

• Students will ...
  1. Know the purpose of interviews and interrogations
  2. Understand the potential for error in eye-witness identifications
  3. Know the factors involved in eye-witness identifications
  4. Identify the correct percentage of how we communicate
  5. Know the relationship of recall and speech
Enabling Objectives

• Students will ...

6. Know the profile of an interviewer
7. Explain random recall
8. Know the characteristics of good listeners
9. Understand the importance of verbal behavior (rate, pitch, volume) as it relates to deception
10. Define lies of omission
11. Explain and give examples of open-ended questions
12. Understand the significance of non-answers

Enabling Objectives

• Students will ...

13. Define kinesics
14. Define behavior symptom analysis
15. Define leakage
16. Understand the time factor as it relates to behavior change of deceptive persons

Enabling Objectives

• Students will ...

17. Define admission
18. Define confession
19. Define interrogation
20. Know the criteria for issuing Miranda warnings
QUESTIONS?

THE METHODOLOGY OF INTERVIEWS & INTERROGATIONS

Terminal Performance Objective

Given simulated or actual situations regarding interviews and interrogations, students will describe the methodology necessary to elicit and document the truth in accordance with state and federal statutory and case law.
Enabling Objectives

• Know the purpose of interviews and interrogations
• Understand the potential for error in eye-witness identifications
• Know the factors involved in eye-witness identifications
• Identify the correct percentage of how we communicate
• Know the relationship of recall and speech

Purpose

TRUTH

is the purpose of all law enforcement interviews and interrogations.

Finding the TRUTH...

The totality of all the facts and circumstances must be captured and examined objectively, thoroughly and completely through a skeptical evaluation process that requires the specific examination of information and credible interpretations from such analysis.
Objective Truth is...

the actual event as it occurred, as though it had been scientifically observed and recorded.

Investigators must sift through the subjectivity and get facts!

YOU ARE....

FACT-FINDERS

You have a duty to objectively sift through information in search of the TRUTH!!

A majority of this information comes from interviews!

Fact-finding is a process that requires the following components

- Specificity
- Objectivity
- Desire
- Persistence
- Humility
- Open mind
- Adaptability
- Patience
Interview Goals

• Who?
• What?
• When?
• Where?
• How?

What About....

• WHY??????

WHY= MOTIVE!!!!!!!!!!

Basis of Knowledge Issues
Big Question- How do they know??

1. Observations
2. Conversations (told by others)
3. Written/Oral Communications
4. Other Evidence

Ensure basis of knowledge is established with all sources.
All Facts Must Be Verified

Basis must be made upon verified evidentiary facts as distinguished from conclusions resulting from mounds of unevaluated non-specific broad information.

Verify through …

1. Independent corroboration
2. Specific, tested, challenged, well documented content from direct witnesses and/or relevant, competent and material evidence.
3. Consistent, logical and reasonable fact patterns.

Facts must be sought, gathered and documented.

Evidence must be identified and collected.

The combination of facts and evidence will create various fact-patterns.

These fact patterns must be accurate, credible and substantiated then verified.
Fact patterns must be identified, grouped, sorted, organized, examined, evaluated, assessed and interpreted. From this process theories will develop. These theories must be weighed and tested then incorporated into the overall circumstances of the case under the clear and convincing evidence standard.

### Whom to Interview

- Witnesses
- Victims
- Suspects
- Officers
- EMS
- Professionals
- Consultants
- Teachers
- Co-Workers
- Friends
- Extended Family
- Neighbors
- Mental Health
Witnesses

A witness is someone that sees, hears, or otherwise observes something related to the incident under investigation.
Concerns:
• Age
• Intellect
• Mental state
• Cooperation and truthfulness
• Others?

Victims

• Very valuable source of information in most cases and should be interviewed as soon as possible.
• Many times, the type of incident and age of the victim may require specialized interview techniques, ie., sexual assault, child molestation, mentally challenged victims, etc.

Suspects

• As a general rule, suspects should not be interviewed until the investigator has gathered all available facts and interviewed the victim and witnesses.
• The investigator should not jump to conclusions during the initial suspect interview.
• Very important to gather information in a non-accusatory dialogue setting. Could transition into an interrogation and may be the only opportunity to speak to the suspect.
Eye Witness Accounts

Many studies are suggesting that approximately 45-60% of all eye-witness accounts are wrong.

Countless cases based solely on eye-witness testimony have been overturned with DNA evidence.

Eye-witnesses can be WRONG!

Eye Witness Accounts

• Four factors involved in eye-witness identification
  1. Perception
  2. Memory Recall
  3. Communication
  4. Candor

Deception vs. Confusion

• It is far more difficult to detect confusion than deception
  • The confused person believes in what they say is the truth
  • The deceiver tries to hide the truth

THE TRUTH IS OUT THERE
Perceived Truth

- Perceived truth is what the person believed they witnessed.
- In a series of subconscious processes, the mind, when faced with contradictory situations seeks equilibrium or relationships. In other words, experiences which confuse us due to a lack of information are resolved by the mind filling in the blanks.

Method

To find the Truth, the investigator must:

- Be thorough
- Be informed
- Let the facts, not pet theories or expediency, drive the investigation

About Truth

- Truth is sometimes subjective
- Witness perception is often suspect
- Is there supporting evidence?
About Theories

• Theories should fit the evidence and the facts NOT the opposite!
• Always follow the EVIDENCE and FACTS!

INSTRUCTIONS:
You will have five seconds to make an observation.
When the slide is removed, you have fifteen seconds to write down the statement that you read.

What did it say?
Expectancy

• We see what we anticipate
• Witness perception and recall should be carefully evaluated

It is imperative that the investigator NOT lead or be suggestive in the interview!

Make it Happen!

• Develop rapport, build trust, develop relational currency
• Rely on kindness rather than authority
• Outline the importance of finding the “Truth”
• Form questions under the rule of “Specificity”
• Probe
• Dig
Make it Happen!

- Often they won’t tell unless you ask
- Rise above emotion and stay objective
- Be proactive, alert, and curious
- As long as they talk you learn

Truth is Below the Lie

- **Definition of lie:** A type of deception in the form of an untruthful statement, especially with the intention to deceive others.

Why Do People Lie?

The motivation for the deception is often the key to its presence!

Motivation can be divided into categories described as human needs
• Lower needs are filled before higher needs
  — Abraham Maslow

Hierarchy of Needs

• Physiological needs:
  • Air, water, and food are metabolic requirements for survival in all animals, including humans
  • If these requirements are not met, the human body simply cannot function

Hierarchy of Needs

• Safety needs:
  • The individuals safety needs take precedence and dominate behavior
  • Safety and Security needs include:
    • Personal security
    • Financial security
    • Health and well-being
    • Safety net against accidents/illness
Hierarchy of Needs

• Love and Belonging
  - The need is especially strong in childhood and can over-ride the need for safety as witnessed in children who cling to abusive parents
  - Humans need to feel a sense of belonging and acceptance. They need to love and be loved (sexually and non-sexually) by others

Hierarchy of Needs

• Esteem
  - All humans have a need to be respected and to have self-esteem and self-respect
  - Esteem presents the normal human desire to be accepted and valued by others

Hierarchy of Needs

• Self-actualization
  - Maslow describes this desire as the desire to become more and more what one is, to become everything that one is capable of becoming; e.g., an ideal parent, a great painter
Hierarchy of Needs

- You want your subject in the safety level
- Because the needs in this area dominate behavior

Various Types of Lies

- **Bluffing** – to bluff is to pretend to have a capability or intention one does not actually possess.
- **Barefaced lie** – one that is obviously a lie to those hearing it (comes from 17th century British usage referring to those without facial hair as being seen as particularly forthright and outwardly honest, and therefore more likely to get away with telling a significant lie.

Various Types of Lies

- **Bold-faced lie** – refers to a lie told with a straight and confident face.
- **Emergency lie** – a strategic lie told when the truth may not be told because harm to a third party would result.
  - Example: a neighbor might lie to an enraged wife about the whereabouts of her unfaithful husband because said wife might reasonably be expected to inflict physical injury should she encounter her husband in person.
Various Types of Lies

• Fabrication – a lie told when someone submits a statement as truth without knowing for certain whether or not it actually is true.
  • Example: a person giving directions to a tourist when the person doesn’t know the directions.
• Lie to children – a lie, often a statement expressed as if it were significant, which is told to make an adult subject acceptable to children.
  • Example: the stork brought you; Santa Clause; Tooth Fairy; or the Easter Bunny.

Various Types of Lies

• Lying by omission – omitting an important fact deliberately leaving another person with a misconception.
  • Example: the seller of a car declares it has been serviced regularly but doesn’t tell that a fault was reported at the last service.
• Lying through your teeth – when one lies face-to-face with the intended recipient.
• Puffery – an exaggerated claim typically found in advertising and publicity announcements such as “the highest quality at the lowest price” or “always votes in the best interest all the people”. Statements that are unlikely to be true but cannot be proven false.

Various Types of Lies

• Perjury – the act of lying or making verifiably false statements on a material matter under oath or affirmation in a court of law or in any of various sworn statements in writing.
• White lie – minor lies which could be considered to be harmless or even beneficial in the long term. A common version of a white lie is to tell only part of the truth therefore not be suspected of lying.
Various Types of Lies

What about “Bullshit”????

Video- On Bullshit
Dr. Harry G. Frankfurt

“Bullshit is unavoidable whenever circumstances require someone to talk without knowing what they are talking about. Thus, the production of bullshit is stimulated whenever a person’s obligations or opportunities to speak about some topic exceed their knowledge of the facts that are relevant to that topic.”


Big Deer
How We Communicate

3 Components of Communication

1. Verbal messages – the words we choose
2. Paraverbal messages – how we say the words
3. Nonverbal messages – our body language

Albert Mehrabian, Ph.D.

- Known for pioneering work in the field on nonverbal communication (body language)
- His theoretical work and experiments helped identify nonverbal and subtle ways in which one conveys:
  - Like-dislikes
  - Power and leadership
  - Discomfort and insecurity
  - Ways to detect when others are being deceptive in communication
Albert Mehrabian, Ph.D.

• 7% of your received messages will be based on the words you are saying
• “I forgive you” means little when your body language and tone of voice do not reflect forgiveness

Albert Mehrabian, Ph.D.

• 38% of messages are processed on your tone of voice
• How you say something is more important than what you are actually saying
  • Example: forgiveness / tone of voice

Albert Mehrabian, Ph.D.

• 55% of messages received and processed by your brain are based on your body language
• You are actually judged more on your physical stance and facial movements while communicating
  • Example: forgiving someone / arms crossed
Albert Mehrabian, Ph.D.

- Improve your non-verbal communication
  - Be aware of your own non-verbal messages
  - What kind of messages are you sending with your non-verbal cues?
    - If you’re frowning, why it that?
    - If your arms are crossed why do you feel unreceptive to the message being presented?
  - Don’t jump to conclusions based on your own cultural normal cues

Mental Processing

- **CONSCIOUS**
  - Logic Center
  - Input
  - Deceptive

- **SUBCONSCIOUS**
  - Emotion Center
  - Decisions
  - Memory
  - Prejudice
  - Truthful

The Mind

<table>
<thead>
<tr>
<th>Conscious Mind</th>
<th>Subconscious Mind</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volitional (conscious choice or decision)</td>
<td>Habitual</td>
</tr>
<tr>
<td>Sets Goals-Judges Results</td>
<td>Monitors Body Operations</td>
</tr>
<tr>
<td>Thinks Abstractly</td>
<td>Thinks Literally</td>
</tr>
<tr>
<td>Short term memory-approx. 20 seconds</td>
<td>Long term memory-attitudes, past experiences, values and beliefs</td>
</tr>
<tr>
<td>Limited processing ability-1-3 events at a time</td>
<td>Expanded processing ability-thousands of events at a time</td>
</tr>
<tr>
<td>Average 40 bits of information per second</td>
<td>40 million to 4 billion bits of information per second</td>
</tr>
<tr>
<td>Logic-Reasoning Deception</td>
<td>Emotion, stress, fear, truthfulness</td>
</tr>
</tbody>
</table>
Logic and Emotion

- Logic and Emotion are opposites
- When one is up, the other is down

Logic and Emotion

- You want to be logical
- You want the subject to be emotional

Truth is found in emotion

Recall and Speech

- Recall Rate: 500 wpm
- Speech Rate: 120 wpm
- Lie Rate: 60 wpm (max)

Pause to Create Non-Answers
Report of a Burglary

QUESTIONS?

ELEMENTS OF AN INTERVIEW
Terminal Performance Objective

Given simulated or actual situations regarding interviews and interrogations, students will discuss the elements of an interview in accordance with the classroom presentation.

Enabling Objectives

- Know the profile of an interviewer
- Know the characteristics of good listeners
- Explain and give examples of open-ended questions
- Explain Random Recall

Interview Defined

“a conversation in which facts or statements are elicited from another to gather information.”
Preparation for Interviews

- Case Review
- Criminal History
- Prepared Questions
  - Partner
  - Location

Interview Environment

- Privacy is critical
  - Use of a small area
  - Room
  - Car
  - Standing away from others
- Eliminate barriers/distractions
- Separate interviewees

Team Approach

- If the interview is not progressing, pause to evaluate problems and approach
- If rapport cannot be established, especially with a witness, have another investigator take the lead
Interview Environment

(Potential Suspect)

Control over the subject

- More control = more behavior to observe
- Less control = less behavior to observe

Interview Environment

- **DO NOT** allow the suspect to:
  - Smoke / Dip / Chew
  - Have a purse or briefcase
  - Have other objects
    - Cell phones
    - iPods / MP3

Interview Environment

- **Furniture arrangement**
  - Desk and two chairs
  - No barriers between Suspect and Interviewer/Interrogator

  Desk is office friendly!
Room Setup

- No Obstacles
- Witness Takes Notes
- Video
- Witness behind and to one side of the subject

Technical Considerations

- Audio / Video
- Handling breaks
  - Tag-outs
Interview Demeanor

• Professional
• Calm
• Seeking Truth

Profile of an Interviewer

DURING THE INTERVIEW

• Attitude
  • Objective
  • Cordial and polite
  • Even-tempered
  • Sincere
  • Interested
  • Understanding

Profile of an Interviewer

• Posture
  • Upright
  • Frontally aligned
  • Leaning forward
  • Open, no crossed arms
  • Avoid slouching
Profile of an Interviewer

• Eye Contact
  • Should be maintained when you ask the suspect questions or when they answer
  • Avoid staring, casual breaks of eye contact are essential

Profile of an Interviewer

• Facial Expressions
  • Avoid expressions of disbelief, shock, anger, humor, disgust, and skepticism
  • Show interest

Profile of an Interviewer

• Tone of Voice
  • Medium, conversational
  • Smooth speech
  • Non-skeptical tone
  • Never a reason to use profanity!
Interview Characteristics

- Non-accusatory
- A conversation
- Gather Information is the primary purpose
- Take notes
- Reasonable time factor
- Build rapport
- Open ended questions

Rapport

- We like people who are like us
- We establish rapport with people we like
- We tell the truth when we establish rapport

Rapport

- Rapport building occurs when an interviewer shows respect for the person and expresses an understanding of the person’s motivations and circumstances
Rapport is Key to Engagement

In order to properly engage in a conversation (interview) with a person in which information-sharing is expected, there must be an element of trust between the parties. This trust is rooted in the rapport building process and can be strengthened throughout the interview.

Engagement is Key to Fact-finding!

- Proper engagement is a free-flowing conversation in which both parties are contributing and information is provided.
- You, the interviewer are responsible for setting this stage!
- Your ability to “connect” will directly impact your ability to obtain information!

Effective Listening

- Techniques
  - Face the speaker
  - Maintain eye contact
  - Minimize external distractions
  - Respond appropriately
  - Keep an open mind
  - Listen to the whole response for its substance
Characteristics of Poor Listeners

- Always interrupts
- Jumps to conclusions
- Changes the subject
- Writes down everything
- Doesn’t give any response
- Loses temper
- Fidgets with a pen or pencil nervously

Characteristics of Good Listeners

- Looks at me while I’m speaking
- Clarifies what I’m saying
- Repeats some of the things I say
- Reacts responsively with a nod of the head, a smile, or a frown
- Pays close attention
- Doesn’t interrupt me

Open Ended Questions

- Require a descriptive response
  - “What happened next?”
  - “Tell me what happened”
Open Ended Questions

**NEVER INTERRUPT!**

- Ask the Open Ended Question and allow the speaker to finish completely WITHOUT INTERRUPTION!
- No one interrupts an interview for any reason!

Direct Questions

- Q & A format
- Designed to pinpoint problems and clarify issues
  - “What time did you get to work?”

Pure Version Statement

*PURE VERSION STATEMENT.doc*

Generally, investigators don’t take written statements from individuals until after the interview.

- The person’s version must be with no influence by the interviewer
- The sharing of time in gathering the personal data information is:
  - Interviewer – 50%
  - Subject – 50%
- The sharing of time in gathering the pure version statement:
  - Interviewer – 5%
  - Subject – 95%
Official Statement

• Get a written statement from each interviewee
• Lying on an official statement is a crime, and punishable as a felony
  ▪ OCGA 16-10-20

Letter of Apology

• May want to offer the suspect that does not provide admissions or a confession the opportunity to write a letter of apology.
• Admissible in court!!!!
**The Investigation**

In all criminal investigations, the goal of the investigator should ALWAYS be to gather the FACTS and to seek the TRUTH! Law enforcement officers are NOT advocates, they are FACTFINDERS!!

*ALWAYS FOLLOW THE EVIDENCE!!*

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**Fact-finding is KEY!**

A large majority of criminal cases are solved *NOT* by physical evidence, but by the investigator’s ability to gather facts from interviewing people! (victims, witnesses, suspects, etc.)

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**Accurate Find-finding**

Investigators and officers involved in interviewing victims, witnesses, and even suspects may need to view the location where the incident occurred (crime scene) as a “frame of reference” in order to ask the right questions and appropriately conduct interviews. Due to crime scene contamination issues, consideration should be given to allow these participants to view a video of said location.
Use of Sketch

In certain situations, investigators may use a sketch of the scene of an incident in the interview process and have the interviewee mark his or her location and document the locations of victims, suspects, and other witnesses. The sketch would then be made a part of the statement or summary of interview.

Timelines

- Timelines are very helpful in creating a visual account of events in close proximity to the incident you are assessing.
- It is difficult to mentally organize volumes of specific events or associations without assistance.
- Timelines are a useful and highly effective way to visually process factual information.
- Timelines are crucial in locking suspects and witnesses into statements that will also require verification.

- Assists in verifying statements within specific time frame
- Increases fact-finding by flagging inconsistencies in alibis
- Shows relationships to incidents, individuals and locations
- Creates a visual image of specific information

Timelines show inconsistencies in alibis
FIRST 48 HOURS

- Very dynamic period of the investigation
- Investigators must be prepared and willing to push during this time frame
- Important to aggressively pursue all leads in order to develop momentum
- Remember, things are not always as they appear—FOLLOW THE EVIDENCE!

FIRST 48 HOURS

Collecting and disseminating factual and specific information from a host of disciplines within the investigative envelope, in a timely fashion, will increase the likelihood for success.
PROMPT INVESTIGATIVE TRILOGY

<table>
<thead>
<tr>
<th>Immediate Specific Focus</th>
<th>Immediate General Coverage</th>
<th>Pending Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim/Specific Witnesses</td>
<td>Neighborhood Canvass</td>
<td>Cell Phone Records-Tower information-Preservation letters</td>
</tr>
<tr>
<td>Specific Evidence</td>
<td>Friends, Family, and Associates Victimology</td>
<td>Computer hard drives—Facebook, Twitter, etc.</td>
</tr>
<tr>
<td>Specific Events</td>
<td>Co-workers</td>
<td>Other records</td>
</tr>
<tr>
<td>Specific Facts</td>
<td>Victim/Suspect Timelines</td>
<td>Private papers</td>
</tr>
</tbody>
</table>

Prioritization

Absent sufficient resources, you MUST prioritize interviews!!!
Fact Finding Capsule

Encompasses 3 principles:

• Specificity
• Element of surprise
• Haste

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FACT FINDING CAPSULE

SPECIFICITY

Element of surprise

HASTE

Interview → Timeline

Document statement/afibi → Verification interviews

Inspect person, clothing, and shoes → Consent searches

Premises & Personal effects

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FIND FACTING CAPSULE

HASTE

• The first 48 hours is a very dynamic period of the investigation. Many things are occurring simultaneously within the investigative envelope (crime scene examination, victim exam, interviews, etc.)

• Critical “need to know” information should be timely distributed by the case investigator and “team work” should be reinforced.
FACT FINDING CAPSULE  SPECIFICITY

- Cases are solved and perpetrators are convicted on specificity issues; whether they are derived from specific information received or from specific evidence recovered.

SPECIFICITY

- Investigators should be prepared for every interview and the interview should be structured.
- The interviewee should be allowed to “tell their story” in their own words before being asked direct probing questions.
- Direct questions require Direct and Specific answers!
- Who can VERIFY?

FACT FINDING CAPSULE  Element of Surprise

- Once prepared, investigators should move hastily and unannounced to conduct interviews, solicit consent to search, or execute search warrants.
- When you have the element of surprise, USE IT!!!
Spontaneous Interviews

• When specific information is developed that may point to a suspect, investigators must prepare themselves for the interview.
• It is not recommended that the suspect be contacted or given an appointment for an interview.
• Once prepared, investigators should locate the individual and conduct the interview.

Random Recall

• Random recall is a memory enhancement technique for the truthful person.
• It is a major stressor for the deceitful person.
• It points out inconsistencies for the unsure witness.

Random Recall

• Retelling events in different order (random recall) helps to remember obscure memories.
• It strips the emotion away.
  • Start your story with the last thing that happened and tell it back to the first.
Random Recall

- USUAL ORDER
  - Sequential
- RANDOM ORDER
  - Non-Sequential

Report of a Rape

BEHAVIORAL SYMPTOM ANALYSIS
Terminal Performance Objective

Given simulated or actual situations regarding interviews and interrogations, students will discuss the characteristics of behavior symptom analysis, in accordance with the classroom presentation.

Enabling Objectives

- Define kinesics
- Define behavior symptom analysis
- Define leakage
- Understand the time factor as it relates to behavior change of deceptive persons
- Understand the importance of verbal behavior (rate, pitch, volume) as it relates to deception
- Understand the significance of non-answers
- Define lies of omission

Behavior Symptom Analysis Defined

The study of verbal and non-verbal characteristics of the truthfulness of a suspect, victim, or witness
Behavior Symptom Analysis

DECRYPTING LANGUAGE
• People send messages though spacing and gestures
  • sometimes consciously
  • sometimes subconsciously

General Areas

• Head & neck
• Arms & torso
• Legs & feet
• Posture
• Hands & objects

TWO VERY IMPORTANT POINTS REGARDING THIS TRAINING

➤ Only the facts and circumstances (evidence) in a case can prove to you that a person is lying.
➤ What they say (words and sentences), how they say it (sequence, timing, rate and pitch) and how they act (non-verbal behaviors through expression, gestures and body movements) “indicate” they are lying.
Academic Research and Studies regarding Behavior Analysis

In 2010 and 2012 the University of Salamanca in Spain, conducted studies regarding the Reid BAI the first study found the Behavior analysis interview was “shared common sense beliefs” and not evidence based practice. The second study outlined the potential of a suspect to manipulate their behaviors to appear truthful.

Dr. Richard Bloom

In the psychological science of deception detection, I’ll note that the authors issue multiple caveats that no one deception indicator should ever be used in isolation and that no indicator always has the same or any meaning. This turns out to be a major finding of psychological research as described in an increasingly dated but still good textbook on the subject, Detecting Lies and Deceit: Pitfalls and Opportunities (Vrij, 2008,)

It is also noteworthy that the authors’ cluster of verbal and nonverbal deception indicators are those that have been and continue to be researched by psychologists (Hillman, Vrij, & Mann, 2012; Leins, Fisher, & Vrij, 2012; Van Swol, Braun, & Malhotra, 2012).

Dr. Richard W. Bloom

Whether through the real world of practice, the high-stakes and low-stakes world of applied research, or some combination, the findings don’t differ. Clusters of these indicators seem to afford a degree of accuracy greater than chance, but not that much more—with a ceiling effect of 60- to 70-percent accuracy when both false positives and negatives are considered. This seems to be the case even when a single indicator contributing to a cluster may support truth telling, deception, or neither in different studies.
Joe Navarro, M.A. retired FBI expert and author

I think we need to listen to experts such as Paul Ekman, Bella DePaulo, Mark Frank, Maureen O’Sullivan, Aldert Vrij, and Judee Burgoon, who have repeatedly stated, there is no single behavior indicative of deception and that the detection of lies is very difficult (Navarro 2008, 205-208).

I have been the beneficiary of great instructors in my professional career and in my life and they have taught me how to use non-verbals to understand the thoughts, feelings, desires, and intentions of others. In forensic settings I was able to use it not so much to detect deception but rather to detect issues or concerns based on the questions that I asked. This allowed me to identify the innocent, to detect criminal activity, to uncover unknown conspirators, and to pursue leads in furtherance of investigations. But in the end, and this is cautionary, no matter what technique is used to look for deception, the only way to really know the truth is to verify and corroborate every single last detail of what someone says. And that is the truth about lie detection.

Obstacles to Detecting Deception

1. The belief that certain people will not lie to you.
   • People do lie and they lie a lot This even goes for caregivers you generally trust. Even they can experience stress and sometimes not be truthful!!
   • Many people feel uncomfortable sitting in judgment of anyone else, and rightly so.
Obstacles to Detecting Deception

2. The complexities of communication
   • Detecting deception is basically analyzing communication (verbal and non-verbal)
   • We misinterpret what is told to us and that interpretation guides our response
   • The majority of communication is non-verbal!
   • Most of us aren’t great communicators!

3. Our Inescapable Biases
   • Bias is a simple fact of life and not necessarily negative
   • Bias has a huge impact on whether we believe someone
   • We must manage biases so we don’t have to think about them during an interview
   • BIAS—Never underestimate the power of its influence!!!!

4. The “Global” Influence
   • In detecting deception, it is virtually impossible to “globally assess” behavior because of large volume of information or data.
   • By using global behavior assessment, you put yourself in a position of having to guess at the significance of behaviors you observe.
   • Must manage the flow of data by taking systematic approach that filters out all extraneous data. Focus on timely and consistent behavior (clusters) “stimulated” by questions.
Obstacles to Detecting Deception

4. The “Global” Influence (cont.)
   - Human behavior isn’t necessarily logical, nor does it necessarily conform to our expectations. What each of us thinks of as logical is a reflection of our own beliefs and moral compass.
   - Human behavior doesn’t always conform to what seems sensible to us, and that what seems sensible to us isn’t necessarily valuable in evaluating how a person thinks or acts.

How Do We Detect Deceptive Behavior??

CIA Polygraphist Philip Houston, in a book he co-authored with two other CIA polygraphists (Spy the Lie) suggests using a technique referred to as:

L-Squared Mode (LOOK and LISTEN)
A heighten state of alertness in which the interviewer uses his/her visual and auditory senses to look and listen simultaneously in order to observe both verbal and non-verbal deceptive behaviors as they are exhibited in response to a question.
This technique is only good WHEN you use it!!

Methodology

Advances are made by answering questions.
Discoveries are made by questioning answers.

Bernard Haisch
Astrophysicist
Methodology

In conducting assessments, being able to determine that a person isn’t lying is just as important as being able to make the call that he is! The key lies in the effective obtaining of objective, balanced information, and accurately assessing behavior.

Methodology

The two primary guidelines for detecting deception are:

- Timing
- Clusters

Timing

• When we refer to timing, we begin with the question or statement that’s the stimulus for the potentially deceptive behavior.
• In order to determine whether a person is being untruthful, we need to look and listen for the first deceptive behavior to occur within the first five (5) seconds after that stimulus is delivered.
Clusters

A cluster is defined as any combination of two or more deceptive indicators. Can be verbal and/or non-verbal.

If you get a single response to a stimulus, IGNORE IT! Remember, folks are different!

What Deception Sounds Like (Verbal Indicators)

• Failure to Answer
• Denial Problems
• Reluctance of Refusal to Answer
• Repeating the Question
• Non-answer Statements
• Inconsistent Statements
• Attack Mode
• Inappropriate Questions

What Deception Sounds Like (Verbal Indicators)

• Inappropriate Level of Politeness
• Inappropriate Level of Concern
• Complaints
• Referral Statements
• Invoking Religion
• Selective Memory
• Qualifiers
• Convincing Statements
Failure to Answer

- Generally, direct questions require a direct answer. If you ask someone a question and he doesn’t give you what you asked for, there’s a reason for that. The reason could be that the facts aren’t on his side and he’s trying to figure out how to deal with that.
- Just an indicator, remember the cluster rule!
  Example
  Q: “Did you rub Jill in the vaginal area?”
  A: “Man, I get all the sex I want, I don’t need to do that to a kid.”

The Pause

- Thus, the first indication of deception may be the pause
- A pause means that a person is either:
  - Thinking carefully about the answer, or
  - Creating an answer

Deceptive Behavior

Behavioral Pause or Delay

Must be considered in context of whether it’s appropriate for the question. Some questions, especially those, requiring thought or recall, may require a delayed response.
Must be considered in context with the person as well. During the course of the interview a pattern will naturally develop that gives you an idea of how much time elapses before the person responds to your questions.
Denial Problems

- Failure to deny- If you ask a person a yes-no question—“Did you do it?” and the person doesn’t respond with a “no” statement like “It was not me” or “I didn’t do it”, that’s significant.
- Non-specific denial- If the denial is delivered in more of a general focus than specific denial. Such as, “I didn’t do anything” or “I would never do something” like that”, that is significant too!

Reluctance or Refusal to Answer

- “I’m not sure I’m the right person to talk to “
- “I’m not sure I can answer that”

It may be that he doesn’t want to be the right person to talk to.

Of course these responses could be legitimate!
Adhere to the cluster rule!

Repeating the Question

- When a person repeats the question you asked and it’s obvious that he understood the question perfectly, chances are he’s buying time and trying to fill in what would otherwise appear to be a very awkward moment of silence.

Q- “Did you take the money?”
A-“Did I take the money?”
Non-Answer Statements
Things people say that don’t provide what you ask for.
“That’s a good question.”
“I’m glad you asked that.”
“I knew you were going to ask me that”
“I don’t think I did it.”
“Do I look like that type?”

Non-Answer Rule
If a person doesn’t answer the question...
...he answered it.

Inconsistent Statements
When a person makes a statement about an issue that’s of interest to you and subsequently changes the story, that’s significant.
**Attack Mode**

Being backed into a corner with facts will sometimes put a lot of strain on a deceptive person and can compel him to go on an attack.

“How long have you been doing this job?”

“Why are you wasting my time?”

“Why are you doing this to me?”

“I’ll sue you!”

“I’ll have your job!”

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**Inappropriate Questions**

Deceptive people may respond with a question that doesn’t relate to the question we ask.

Example:

**Question:**

“Did you take the money from the bank bag?”

**Response:**

“Did you have to go to college to get this job?”

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**Inappropriate Level of Politeness**

It could be significant if a person, in response to a question increases their level of nicety. They may even offer a compliment to the interviewer.
Inappropriate Level of Concern

Deceptive people feeling stressed may display an inappropriate amount of concern in an effort to diminish the importance of the issue.
“Why is this such a big deal?”
“Why is everybody worried about that?”

Complaints

Many times, deceptive people will play offense rather than defense by taking issue with the proceedings. They will ask questions like:
“How long is this going to take?” or
“Why are you asking me?”

Referral Statements

Sometimes in response to a question, a deceptive person will refer to having previously answered the question.
“As I told you before..”
“Like I told the last guy..”
Invoking Religion

Very effective means of “dressing up the lie”.

“I swear to God!”
“As God is my witness, I’m telling the truth!”

Selective Memory-Hedging Statements

When a person says, “I don’t remember”, this is a statement that is hard to refute because it could be legitimate. However, if a question is very specific, it should be answered specifically.

Question
“Did you take the $500 from the cash box?”

Responses:
“Not that I recall”
“I don’t remember”
“Not that I’m aware of”

NONE OF THESE WILL FLY!!!!!!!!!!!!!!

The Use of Qualifiers

Two Types:
• Exclusion Qualifiers
• Perception Qualifiers
Exclusion Qualifiers...

Enable people that want to withhold certain information to answer your question truthfully without releasing that information. In other words, they don’t tell you everything (lie of omission) but what they tell you is the truth.

“Basically...”
“For the most part...”
“Probably...”
“Most often...”
“Usually...”
“Primarily...”
“Well...”

Perception Qualifiers

Used to enhance credibility.

“To be honest with you...”
“To tell you the truth...”
“Honestly....”

All qualifiers could be speech patterns or habits as well so keep this in mind!

Convincing Statements

LIES OF INFLUENCE!
Statements made by the interviewee in effort to enhance credibility by convincing the interviewer of their goodness, honesty, concern, etc.
Very powerful!
Convincing Statements

Effective because:
1. They are true or irrefutable at the time given.
   “I love my children”
   “I would never hurt my kids”
2. Usually incorporate emotion (tears)
3. Usually consistent with investigator’s bias

Convincing Statements

Examples:
“I have a great reputation”
“Why would I ever jeopardize my job ...”
“I always try to do the right thing”
“I have worked here over 20 years...”
“Its not in my nature to do that sort of thing”
“I’m not that type of person”

How to Combat Convincing Statements

You do this by neutralizing them, rendering them ineffective by acknowledging or agreeing with them. Must be distinguished from agreeing with the action or issue you are interviewing about.
Example:
“I love my kids. I would never hurt them”
Your response:
“Susan, I know you love your kids. I think that’s evident to everybody. Susan, we want to talk to you now about what really happened. We want to go over your story again.”
Combatting Convincing Statements

**Do:** Acknowledge and agree with the statement BUT don’t let it impact you. Stay focused and on point with your fact-finding.

**Don’t:** Challenge the person and tell them they are lying. This will trigger defenses and they may shut down. You want them to open up and provide further information so you can assess verbal and non-verbal behavior.

Consequence or Punishment Questions

*Look for Unintended Messages*

Question:

“What do you think should happen to the person that did this?” or

“Do you think the person that did this deserves a second chance?”

If the person responds with an abnormally lenient punishment, that raises a red flag that you’re dealing with a deceptive person.

Paraverbal Indicators

- **Number of words**
  - Shorter sentences may reflect the more careful thinking that a liar has to use in order to sustain the accuracy of their storyline

- **Filled pauses**
  - When we pause in our speech there is an opportunity for the other person to interrupt and take control of the conversation (ummmm, aaahh)

- **Pitch**
  - When people are tense their vocal cords tense up and the pitch of their voice will rise. If the liar is feeling this tension then their vocal pitch will go up
Paraverbal Indicators

- **Repetition:**
  - Liars may repeat what they have already said when they run out of things to say

- **Speech errors:**
  - When a person is tense or thinking about multiple things at once they may mix their words up

- **So what?**
  - Watch for paraverbal signs as well as verbal and body language. If you see clusters and link them to particular questions or thought patterns then the likelihood of lying increases

Verbal Behavior

- **Principals of verbal behavior**
  - More controlled than non-verbal
  - Verbal must be evaluated in conjunction with the accompanying non-verbal observations
  - Verbal answers may be analyzed and categorized as more typical of truthful or deceptive

Verbal Behavior

- **Voice**
  - Rate
    - How fast we talk
  - Pitch
    - How high we talk
  - Volume
    - How loudly we talk
Verbal Behavior

• When:
  • Rate,
  • Pitch, and
  • Volume
  All increase simultaneously, there is a statistical probability of 80-90% deception

Verbal Behavior

• Truthful persons generally answer specific questions with direct, spontaneous and realistic words.
• Deceptive may be unable to answer in complete sentences
• Deceptive may answer the investigator’s question too quickly
• Deceptive may evade answering by talking off the subject
• Deceptive are more likely to question or challenge factual information

About Liars

• To be proficient, a liar must...
  • Be experienced in deceit
  • Be creative
  • Have sufficient time to prepare
  • The lie must fit the facts known to the questioner
  • Be more proficient at deception than the questioner is at detecting deception
About Liars

- Liars tell stories in strict chronology
- Liars use softer language
  - Instead of saying “I didn’t steal the purse” they may say “I didn’t take the purse.”
- Liars overemphasize their truthfulness
  - “To tell you the truth…”
  - “Honestly…”
  - “I swear to you…”
  - “On my mother’s grave…”

Lies by Omission or Commission

- Omission: The most common way to lie
  - Leave something out of the story
- Commission: Making something up
  - Most deceptive statements contain a great deal of truth, with a lie slipped in

Reactions to Stress

- Truthful:
  - Suppressed tension during questioning
  - Brief show of anger at the end
    - First anger
    - Then recovery
Reactions to Stress

• Deceptive:
  • Elevated tension during questioning
  • Show of relief at the end

Baiting Technique

• Defined
  • The baiting technique is a non-accusatory question asked during the interview in which the interviewer implies the possible existence of incriminating evidence for the purpose of enticing the suspect to change or consider changing his original denials

  • General Principle
    • Only after questioning the suspect regarding his alibi, relationship with the victim, or crime scene; and only after obtaining the appropriate commitment
Reactions to Stress

• The relief phase results in “dropping of the gloves”
• Now hit the person with hard evidence or the unexpected
• May result in “leakage”

Baiting Suggestions

• Ballistics
• Fingerprints
• Fibers
• Blood
• Tire Tracks
• Hair
• DNA
• Documents
• Glass Fragments
• Shoeprints
• Video Camera
• Chemical Analysis
• Teeth marks
• Liquids
• Soil Analysis
• Eye Witness

Baiting Purpose

• Get the suspect to change his story
  • Those suspects that change their story or respond with a “yes” are usually deceptive
Baiting Purpose

- Identify the Guilty Suspect
  - Suspect will delay before answer
  - Suspect will ask you to repeat the question
  - Suspect will act confused and ask questions
- Deer in headlights
  - Look for stare while baiting

Baiting Purpose

- Identify the Truthful Suspect
  - Quick response
  - Body posture open
  - Voice strong

Formulating the Bait Question

- Introductory phrases
  - “Is there any reason why…”
  - “Is it possible…”
  - “If we were to ask…”
Baiting Technique

- Appropriate time to use baiting technique
  - The bait is usually the last question
  - The bait is a transition from the interview into the interrogation

Observing Deception

- There is no one universal sign, gesture, or indicator of truth or deception
- Look for clusters

Universal Indicators

- No one clue to deceit is reliable for all human beings
- There is no one gesture or sign of deception that is reliable for all people all of the time
- USE MULTIPLE TECHNIQUES
Leakage
- The liar inadvertently reveals the truth
- May be verbal or behavioral

Behavior Symptom Analysis
- Non-verbal is more spontaneous, less of a conscious act
- Non-verbal is responsible for communication in real meaning
- Non-verbal should match verbal
- Non-verbal observations are more important than verbal
- Your behavior influences the suspect’s behavior

Theft of Money
Status of the Offender

- Professional - generally ask for lawyer or answer no
- Experienced (repeat) - put a lot of reliability in non-verbal movement
- Inexperienced - verbal and non-verbal both important

Behavior Symptom Analysis

- Proxemics
  - Space and distancing
- Kinesics
  - Movement and gestures

Space

- Everybody has space
- Distancing
  - Social = 3 – 5’
  - Personal = 3’
  - Intimate = 1-1 ½’
- Entering the space of another causes stress
- Men and women use space differently
Intimate Space and Stress

- When another enters one’s intimate space it causes stress
- Not all stress is negative

Invading Space

- Body space can be invaded two ways:
  - Physically
    - Moving into the space
  - Visually
    - Staring

The Four C’s

- Characteristics
  - Changes
  - Clusters
  - Culture
**Analysis Elements**

- **Characteristics**
  - Establishing a norm for the subject; determine during the administration or conversation phase
- **Change**
  - A difference between the norm and the current reaction; note duration & intensity
- **Clusters**
  - More than one behavior occurring simultaneously
- **Culture**
  - The effects of socialization on behavior; some cultures don’t look law enforcement in the eye

**Internal Factors**

- Intelligence of the suspect - Intelligence has nothing to do with education
  - IQ is important
  - Don’t put too much weight on behavior, if low intelligence

- Emotional stability of the suspect
- Emotional maturity
- Cultural differences - eye contact could be a problem with some countries
- Drugs, alcohol, physical and medical conditions - high blood pressure, diabetes
Observation & Evaluation

• Look for changes from the ‘normal’ pattern
• Establish the normal through non-threatening questions
  • (I.e. spell last name, how long have you worked at...?)

Observation & Evaluation

• Check all behavior for timing and consistency
  • Asking ...................... Stimulus
  • Answering ............... Response

Stimulation Source

• The interviewer must determine the cause of a given response
  • Is the subject showing stress because of deception?
  • Is the subject showing stress because of reaction to something else?
    — Other stimuli — i.e. internal feelings
    — You
Stimulus & Response

- With a deceptive response you will get a behavior change within 0 to 5 seconds after the response.
- Any behavior change after 5 seconds cannot be evaluated as deceptive.

Stimulus and Response

- Read behavior clusters rather than single observations.
- No one behavior indicates guilt!
- Consider the behavior relative to the case facts and evidence.

4 Tips to Formulating Clear Stimulus Questions

1. Keep it short- You don’t want to ramble when asking your question.
2. Keep it simple- No complex sentences to show off your intellect!
3. Keep it singular in meaning- No ambiguous questions. Prepare in advance!
4. Keep it straight-forward- Trust is important in obtaining information! RAPPORT!!
**Behavior Common to Both Truthful and Deceptive**

- Nervous
  - As the interview progresses a truthful person becomes less nervous
- Angry
  - Real anger vs. phony anger
- Fearful
  - Innocent are fearful of the unknown

**Truthful Behavior**

- Composed
  - Person who is reasonable and rational
- Concerned
  - Shows sincere interest
- Cooperation
  - Willing to do what’s necessary to prove innocence
- Direct and spontaneous
  - Truthful person does not have to think about remark

**Truthful Behavior**

- Open - honest
- Sincere
- Unyielding
  - “I DIDN’T DO IT”
  - “I DID NOT DO IT”
Examples of Changes

• Breaking eye contact
• Shifting seat position
• Placing hand to mouth/nose
• Crossing legs

Deceptive Behavior

• Overly anxious - stammering, stuttering, tongue tied
• Overly polite - too cooperative
• Defensive - unjust anger, uncooperative
• Evasive - “I don’t know”, “I am not sure”, “I don’t remember”
• Complaining - about everything

Deceptive Behavior

• Defeated - head down; they know you know they did
• Rationalizing - explains how it could not be him OR how it had to be someone else and How they did it
• Unconcerned - act like they don’t care
Body Positions

• Truthful
  • Upright
  • Open and Relaxed – most noticed
  • Lean forward on occasion
  • Frontally aligned
  • Casual posture changes

• Deceptive
  • Slouching
  • Very rigid
  • No frontal alignment
  • Barri ered posture
  • Runner’s position
  • Lack of interest
  • Erratic and rapid posture change
  • Head and body slump

Gesturing

• Open posture
  • Relaxed
  • Accepting
• Closed posture
  • Stressed
  • Rejecting
Deceptive Gestures & Movements

- Significant posture changes
- Personal gestures
  - Rubbing and wringing of hands
  - Scratching, stroking, picking
  - Pulling of nose or earlobes
  - Hair straightening, pulling
  - Licking of lips, difficulty swallowing

Deceptive Gestures & Movements

- Personal gestures
  - Clearing of throat, coughing
  - Sighs and yawns
  - Nail inspection, biting, chewing
  - Wiping of sweat
  - Knuckle popping
  - Drumming of fingers
  - Tapping of feet
  - Leg bouncing

Deceptive Gestures & Movements

- Grooming gestures
  - Adjustment of clothing
  - Dusting, lint picking, thread pulling
  - Winding of watch
  - Jewelry adjustment
Deceptive Gestures & Movements

- Supportive and protective gestures
  - Head or chin on hand
  - Hiding of mouth or eyes
  - Hiding of hands or feet

Facial Expressions

- Eye contact
  - The windows to the soul
  - Deceptive suspects tend to avert their gaze due to the belief that their guilt can be seen
  - Normal eye contact has been shown to be maintained 30-60% between two people in normal conversation

Facial Expressions

- General principles of eye contact
  - Truthful suspects look at you longer
  - Interviewers have greater freedom in maintaining gaze than the suspect
  - Emotionally disturbed or shy people may have very little eye contact
  - Too long of a gaze by a suspect (staring) is normally a challenge
  - Do not challenge any suspect to look at you
  - No dark glasses for either the suspect or interrogator
Child Sexual Abuse

Eyes

• Eyes represent a key to inner feelings and conflicts
  • What is communicated by the eyes above?

Whites of the Eyes

• Four whites
  • Whites on all sides of the pupil
  • Typical of surprise
  • The “psychotic stare”
• Two whites
  • Whites on each side of the pupil
  • Normal condition
• Three whites
  • Whites on three sides of pupil
  • Indicates stress
Whites of the Eyes

- NORMAL
- STRESSED
- SHOCK/FEAR

Pupil Dilation & Constriction

- Constriction
  - Stress
  - Viewing something disturbing
- Dilation
  - Relaxation
  - Viewing something pleasing

Neurolinguistic Eye Movement
So Now What?
Identifying deceptive behavior doesn’t make you a human lie detector! However, you do have a very useful and effective tool that can help you resolve everyday situations involving deception. It must be employed with the understanding that what it yields is information that warrants further examination. In other words...You Have More Work to Do!!!!!!

Detecting Deception

**DO:**
- Practice a lot- watch talk shows, interview shows, news programs, any forum where people are called upon to answer questions. (must be in L-square mode)
- Refrain from practicing on your significant other!
- Use your new skills only for good
Detecting Deception

DON’T:
• Do or say anything that makes the person aware that you are reading them because it will trigger defenses.
• Allow yourself to deviate from the “cluster” rule.
• Ask the question unless you’re sure you really want to know the answer!

Cognitive Interview

Technique for interviewing eyewitnesses and victims in which memory is reliably enhanced. The cognitive interview is based on 4 Memory Retrieval Rules:
1. Mental Reinstatement of Environment and Personal Contacts
2. In-depth Reporting
3. Describing the TBR (to be remembered) Event in Several Orders
4. Reporting the TBR Event from Different Perspectives

Cognitive Interview

1. Mental Reinstatement of Environment and Personal Contacts

• Participant asked to revisit the event
• Mental picture of the environment
• Personal mental state
Cognitive Interview

2. In-depth Reporting
- Reporting of every detail regardless of how peripheral it may seem to the main incident.
  Important because:
- Participant may only initially report what they assume to be important
- Recalling partial details may lead to the recall of additional relevant information.

Cognitive Interview

3. Describing the TBR Event in Several Orders
- Event narrative (chronological order)
- Random recalling of event different than original starting point

Cognitive Interview

4. Reporting the TBR Event from Different Perspectives
- Perspective of another witness
- Perspective of another victim
Cognitive Interview

Process
• Rapport/relationship is key
• Interviewer explains expectations ref the retrieval rules
• Uninterrupted narration of the event by the witness/victim
• Interviewer will guide participant thru memory/recall representations

Cognitive Interview

To be effective the interviewer must:
• Encourage the participant to revisit their state of mind at the time of the event.
• Make every effort to help the participant stay in a state of focused concentration—free of disruption
• Use open-ended questions to encourage participation
• Tailor the interview to each participant. Folks are just different!

QUESTIONS?
ELEMENTS OF AN INTERROGATION

Terminal Performance Objective

Given simulated or actual situations regarding interviews and interrogations, students will discuss the elements of an interrogation.

Enabling Objectives

• Define admission
• Define confession
• Define interrogation
• Know the criteria for issuing Miranda warnings
Interrogation Defined

“To examine by questioning a suspect formally when guilt is reasonably certain”

Transition

• Interview to Interrogation
  • Interview then decide some time later
  • Interview then break for several minutes
  • Interview then Interrogate without stopping

Profile of an Interrogator

• Demeanor
  • Confident in your decision
  • Understanding Approach
  • Sympathetic
  • Patient
  • Persistent
Profile of an Interrogator

• Sitting position
  • Frontally aligned
  • Lean forward on occasion
  • Feet flat on floor
  • Open, no crossed arms

Profile of an Interrogator

• Tone of voice
  • Smooth
  • Controlled
  • Confident and believable

Profile of an Interrogator

• Eye Contact
  • Maintain eye contact when you are conveying your theme
  • Look away when the suspect gives denials
  • Direct eye contact is maintained when you give an alternative
Interrogation

• Accusatory
• Interrogator controls the Interrogation with theme
• Guilt is reasonably certain
• Evidence is insinuated
• Time is not limited
• Privacy is essential
• No note taking

Inbau, Fred; Reid, John; Buckley, Joseph, (2004)
Criminal Interrogations and Confessions (4th ed) Aspen Publishing

Interrogation

• Theme is a monologue presented by the Interrogator in which he offers reasons and excuses that will serve to psychologically justify, or minimize the moral seriousness of the suspect’s criminal behavior.

Theme

The Investigator presents the acceptable reasons to confess, usually in one of three non-exclusive and non-exhaustive categories:

1. Rationalizations offers suspects the opportunity to make their crimes appear socially acceptable based on the circumstances at the time of the incident.
   • Example: I didn’t mean to steal the money, I just wanted to borrow it.
Theme

2. *Projections of blame* distance suspects from appearing solely responsible for the crime by transferring partial blame to someone or something else, such as victims, peers, society, or intoxicants.

3. *Minimizations* try to reduce or minimize the heinous nature of the crime so it produces less guilt or shame for the suspect.

**Examples of Interrogation Themes**

- Avoid descriptive / emotionally charged words
- Use soft words
- Examples:
  - *Killed vs. caused the death of*
  - *Molested vs. touched inappropriately*
  - *Steal vs. borrowed / took*

Theme

These themes do not provide legal excuses for the crimes.

Prior to employing the interrogation tactic using the theme-driven approach, Investigators should familiarize themselves with departmental policy and laws applicable to the use of deceit in their respective jurisdictions.

Interrogation
**Interrogation**

- **Denial** is any statement or action which contradicts or refuses to accept the truthfulness of an allegation.

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**Interrogation**

- **Issue:** Suspect paces the room
  - Procedure to get them seated
    1. The interrogator remains seated
    2. Continue to interrogate as if the suspect never stood up
    3. 30-60 seconds after suspect has stood up, say: "What I have to say is important; why don’t you take a seat and listen."

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**Interrogation**

- **Admission:** Any act or statement made by the suspect that tends towards proving his guilt
  - Homicide: “I’m sorry about what I did.”
  - Child molester: “If I did touch her, it would have been for a few seconds.”

- **Confession:** A statement made by the suspect that acknowledges him to be guilty of the offense charged and discloses the details of the act
Interrogation

• Committing The Suspect To The Crime
  • To get corroborating evidence

Interrogation

• Direct Questions
  • Q & A format
  • Designed to pinpoint problems and clarify issues
    • “What time did you get to work?”

Interrogation

• Witnessing The Oral Confession
  • Two people could testify to the suspect’s verbal admission.
  • To prepare the suspect for the written confession.
  • Use someone who would not cause your suspect to be embarrassed.
Interrogation

• Statements
  • Take the statement without delay
  • Privacy is important
  • Keep the suspect in the same room

Interrogation

• Statements written by the interrogator
  • Use suspect’s language
  • Note if suspect had food, drink, etc.
  • Have suspect correct and initial
  • Time and date statement began and ended
  • Number pages
  • Establish voluntariness

Interrogation

• Statements written by the suspect
  • Advise prior to beginning:
    • “Wyatt, I would like you to write a letter explaining exactly what you told me about this. How it happened, why it happened, and if you are sorry it happened. This is important because it shows you want to tell the truth.”
Official Voluntary Statement

I, _______________________, am ___________ years of age and my address is ____________________________.

I declare that the following statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, by any person or persons whomsoever.

I have read this statement consisting of ______ page(s), and I affirm to the truth and accuracy of the facts contained therein.

This statement was completed at _____ M., on the ________day of ____________________.

Witness ______________________ Person Giving Statement

Voluntary Statements

• Remain In The Room
  • Do not dictate what the suspect should write
  • Do not spell words for the suspect
  • Ensure all elements of crime are included
  • Have the suspect initial any changes.
Recorded Statements

- Consideration should be given to recording all interviews where there is a potential for the interviewee to later change his/her statement.
- Hostile witnesses who may later recant or others who may simply not remember their original statement.
- Powerful evidence in court and EXPECTED by many.

Recorded Statements

- Remember, audio and video recorded statements are subject to Open Records and exempt material must be redacted just like a case report.
- This process requires special computer programs and is very time-consuming.

QUESTIONS?
LEGAL CONSIDERATIONS

Terminal Performance Objective

Given simulated or actual situations regarding interviews and interrogations, students will provide the Miranda warnings when required in accordance with state and federal statutory and case law.

Enabling Objectives

• Know the two requirements of Miranda
• Understand what renders a confession inadmissible
• Know the purpose of a Jackson vs. Denno hearing
Miranda Warnings

*Miranda warnings* are intended to inform a suspect of their constitutional rights against self-incrimination and must be provided prior to custodial interviews and interrogations conducted by peace officers.

“*A person is considered to be in custody and Miranda warnings are required when a person is (1) formally arrested or (2) restrained to the degree associated with a formal arrest. Unless a reasonable person in the suspect’s situation would perceive that he was in custody, Miranda warnings are not necessary.*”


*Miranda warnings are required when:*

1. There has been such a restriction on a person’s freedom as to render him in custody;
   - Formal arrest
   - Loss of freedom associated with formal arrest
2. *And* the person is being questioned
Miranda Warnings


- Capsule: Evidence obtained by the police during custodial interrogation of a suspect is not admissible in court to prove guilt unless the suspect was given the Miranda warnings and there is a valid waiver.
- The warnings must convey to the suspect that:
  1. He has a right to remain silent
  2. Anything he says can be used against him in a court of law
  3. He has a right to the presence of an attorney
  4. If he cannot afford an attorney, one will be appointed before questioning, if he wishes.

Miranda Warnings

- *Miranda* warnings are best advised when read from a form and not from memory.
- *Miranda* warnings are best documented when the form is read to the person and is signed by the person and a witness.
  - Capsule: The Miranda warnings need not be given in the exact form as worded in Miranda v Arizona; what is needed is that they simply convey to the suspect his or her rights.

Miranda Warning Waiver

[Image of Miranda Warning Waiver document]

- Date___________________ Time__________ Place________________
- My name is ____________________________, I am _____ years old.
- My address is ______________________________.
- I completed the ________ grade in school.
- I know that ___________________________ is a peace officer.
Miranda Warning Waiver

He/She told me that:

• I have the right to remain silent.
• Anything I say can be used against me in a court of law.
• I have the right to talk to a lawyer and have him present with me while I am being questioned.
• If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I wish.
• I can decide at any time to exercise these rights and not answer any questions or make any statement.

I understand my rights. Having these rights in mind, I am willing now to talk about ____________________________.

I have not been threatened. I have not been promised anything. I have not been forced in any way to answer any questions or make any statements.

NAME ________________________________________
OFFICER'S NAME_______________________________
WITNESS' NAME ________________________________

Request for Attorney

• If you are not sure whether or not the person has requested a lawyer, “CLARIFY” by asking the person if they want a lawyer.
  • Examples:
    – “Do you think I need a lawyer?”
    – “I might need a lawyer.”

Inadmissible?

• What renders a confession inadmissible?
  • Threat
  • Promise
  • Physical coercion
Jackson v. Denno

- A hearing to determine if a confession or statements made by a defendant were given involuntarily and so should be suppressed as evidence.
- The trial judge must be satisfied that the confession was freely and voluntarily given and where Miranda applies, that the defendant knowingly and intelligently waived his Miranda warnings.

Admissibility of Statements

Totality of the Circumstances
The Georgia Supreme Court held that it is proper to consider nine factors to determine whether the "totality of the circumstances" test has been met.

Totality of Circumstances Factors
1. The age of the defendant
2. Defendant's education
3. The knowledge of the defendant as to both the substance of the charge and the nature of his right to consult an attorney and his right to remain silent
4. Whether the accused is held incommunicado or allowed to consult with relatives, friends or attorney
5. Whether the accused was interrogated before or after formal charges had been filed.
Totality of Circumstances Factors

6. Methods used in interrogation
7. Length of interrogation
8. Whether or not the accused refused to voluntarily give a statement(s) on (a) prior occasion(s)
9. Whether the accused repudiated the extrajudicial statement at a later date

THESES FACTORS APPLY FOR BOTH JUVENILE AND ADULT

Miranda Decisions

During an interview or interrogation, if the person makes a request for a lawyer, the questioning must stop.

  - Capsule: An accused who, after having been given the Miranda warnings, invokes the right to remain silent and to have a lawyer present, cannot be interrogated further by the police until a lawyer is made available.

  - Capsule: An accused who has invoked the right to counsel may not be subjected to a police initiated interrogation even if the interrogation concerns a different crime.

  - Capsule: Once a suspect requests a lawyer, the interrogation must stop whether the suspect confers with the lawyer or not.
Miranda Decisions

- **Brown v. Mississippi**, 297 U.S. 278 (1936)
  Capsule: Confessions obtained as a result of coercion and brutality are not admissible in court.

  Capsule: The *Miranda* rule applies to all types of offenses, except the roadside questioning of a motorist detained pursuant to a routine traffic stop.

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Miranda Decisions

  Capsule: A confession must be suppressed if obtained during a detention where officers did not have probable cause for an arrest and where the detention amounted to the functional equivalent of an arrest.

  Capsule: Giving the *Miranda* warnings after the police purposefully obtain an unwarned confession violates the *Miranda* rule; therefore statements made even after the *Miranda* warnings are given are not admissible in court even if they repeat those given before the *Miranda* warnings.

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Miranda Decisions

  Capsule: After an invocation of *Miranda*, police can return after 14 days (whether suspect is incarcerated or not) and attempt another interview.
Miranda Decisions

  
  Issue: whether the Miranda custody analysis includes consideration of a juvenile suspect’s age. More specifically, whether “a child’s age, would have affected how a reasonable person in the suspect’s position would perceive his or her freedom to leave.”

Constitutional Guidelines

• *Garrity vs. New Jersey* 385 U.S. 493 (1967)
  - The threat of removal from public office under the forfeiture-of-office statute to induce the petitioners to forgo the privilege against self-incrimination secured by the Fourteenth Amendment rendered the resulting statements involuntary and therefore inadmissible in the state criminal proceedings.

Interviews, Confessions and Miranda Warnings

Whenever considering an interview of a subject in custody, or even a suspect, of a serious crime always consider coordinating with your legal advisor prior to the start of the interview.