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Interrogation and Investigative Interviewing in the United States: Research and Practice

Christopher E. Kelly, Ph.D. & Christian A. Meissner, Ph.D.

In a country as large and diverse as the United States and one with a decentralized criminal justice system, it would be nearly impossible to have an accurate census of investigative interviewing and interrogation practices of all – or even most – American law enforcement agencies. Interrogators at the local and state levels, where the vast majority of crimes are investigated, operate through some combination of formal and on-the-job training. The formal training that interrogators receive can range from a few hours of in-house training to popular third party, multi-day courses such as the Kinesic Interview (Walters, 2003), the Reid Technique (Inbau, Reid, Buckley, & Jayne, 2013), or Wicklander-Zulawski & Associates (Zulawski, Wicklander, Sturman, & Hoover, 2001). Even at the federal level, there exists a modicum of standardization across agencies, with the Federal Bureau of Investigation hosting its own training operations at Quantico, Virginia, while other agencies participate in the Department of Homeland Security's Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia.¹ Unlike other countries that have standardized training and practices in investigative interviewing and interrogation, a uniform American system of interrogation is difficult, at best, to identify.

As problematic as it is to be precise (and concise) about American investigative interviewing and interrogation, however, the adversarial nature of the criminal justice system is the common thread running through the various law enforcement agencies in the United States. This adversarial model of criminal justice naturally leads to an accusatory model of interrogation (Leo, 2008), in which extracting confessions is given primacy and a presumption of guilt

¹ This is to say nothing of the country's human intelligence (HUMINT) apparatus, though an Executive Order commanding all federal-level interrogators to conform to the standards of the Army Field Manual 2-22.3 was issued by President Obama in January 2009.

determines the onset of an interrogation (Meissner, Redlich, Michael, Evans, Camilletti, Bhatt, Brandon, in press). It is by no means universal among American police, but the accusatory model of interrogation is based on psychological manipulation that replaced physical coercion or the so-called “third degree” (Kassin, Drizin, Grisso, Gudjonsson, Leo, & Redlich, 2010; Leo, 2008). Other hallmarks of the accusatorial model include establishing control over the suspect, using closed-ended questions that confirm what the interrogator already believes to be true, and judging deceit based upon the suspect’s level of anxiety (Meissner et al., in press).

The earliest codification of the psychologically manipulative methods of the accusatorial model was in W. R. Kidd’s (1940) *Police Interrogation* manual, though many of the tactics continue to be taught and practiced in contemporary American interrogation. In generic terms, interrogation can be seen as the successive use of three tactics that are geared toward inducing the suspect to confess: *isolation*, *confrontation / maximization*, and *minimization* (Kassin & Gudjonsson, 2004). First, the suspect is left alone prior to questioning in a small room to contemplate the impending interrogation. Next, interrogators present evidence implicating the suspect in the crime, not allowing him to deny the accusations, and foretelling the consequences of non-cooperation. The goal here is to overwhelm the suspect and to maximize his perception of his culpability and the likely consequences therein. In the final step, the interrogator takes a softer approach, offers explanations for the crime that are more favorable to the suspect and that may minimize both the perception of his culpability and the likely consequences that would follow. Together, the methods described here create conditions favorable to the police interrogator to achieve the goal of obtaining a confession; however, the methods also leave the suspect vulnerable to being coerced into giving a false confession (Kassin et al., 2010; Meissner et al., in press).

A related – but no less critical – factor in the shift from physically abusive to psychologically manipulative methods in American interrogation was the landmark *Miranda v. Arizona* (1966) decision (Leo, 1992). In *Miranda*, the Supreme Court reaffirmed the rights of custodial suspects against self-incrimination and imposed upon the police the well-known requirement of reminding suspects of said rights prior to questioning. In the years following the decision, the law enforcement community (and adherents to more conservative crime control measures generally) argued that the new rules would hamstring police investigations. These fears have proven unfounded, as research has consistently demonstrated that suspects overwhelmingly waive their *Miranda* rights and offer admissions and confessions (Cassell & Hayman, 1996; Feld, 2012; Kassin, Leo, Meissner, Richman, Colwell, Leach, & La Fon, 2007; Leo, 1996a). A compelling reason for this is that police quickly became adept at delivering the warning and convincing suspects that it is in their best interests to waive their rights (White, 2001).

The American model of accusatorial interrogation is sharply contrasted with the information gathering approach most associated with police in the United Kingdom. Whereas American police interrogations are guilt presumptive, confrontational, and rely heavily on psychological manipulation (including the disallowing of denials), systems in the United Kingdom and elsewhere rely on information gathering techniques that do not presume guilt, that establish rapport and use principles of investigative interviewing that allow the suspect to freely offer his or her account, and that present evidence in a strategic manner (Meissner et al., in press). The information gathering interviewing strategy, also known as the PEACE model (Planning and preparation; Engage and explain; Account; Closure; Evaluation; Clarke & Milne, 2001), was developed in an attempt to curtail miscarriages of justice brought on by coercive and accusatorial methods (see AUTHOR, this volume, for much more information on PEACE).

The current chapter on American interrogation begins with a focus on the descriptive and observational research of contemporary interrogation in the United States. We then analyze these practices in light of what is known to be the most effective methods of investigative interviewing and interrogation. In the final portion of the chapter we examine training practices in the United States, with a focus on accusatorial methods, and then look to the future of American interrogation. We conclude with an observation that American interrogation is at a crossroads with regard to the practice of interrogation and the nascent, but perhaps increasing, influence of evidence-based practices.

American Interrogation in Practice: Descriptive Research

In this section we focus on several major studies that have systematically catalogued interrogation practices in the United States through one of two methodologies: self-reported surveys and observational / content analyses. These studies paint a picture of American interrogation which, when compared with most other countries' practices, highlight the differences between accusatorial and information gathering models. As discussed below, observational studies of American interrogation are relatively rare; however, several recent projects (e.g., Cleary, 2013; Kelly, Redlich, & Miller, 2013; Russano, Narchet, Kleinman, & Meissner, in press) are contributing to a contemporary perspective on interviewing and interrogation in the United States.

The preeminent survey of police interrogators was conducted by Kassin et al. (2007) wherein 631 police interrogators² were asked to report their usage of 16 techniques, most of which were drawn directly or adapted from common interrogation manuals. The most common

² Although this chapter is concerned with American practices, it should be noted that the Kassin et al. (2007) sample included a small proportion (< 10% of the total) of Canadian police investigators.

techniques reported by investigators included isolating the suspect from family and friends, conducting the interrogation in a small room, identifying contradictions in the suspect's story, and building rapport. Those techniques considered to be the most coercive or manipulative were reported to be employed very infrequently: using physical intimidation or threats of consequences for non-compliance, lying to the suspect about having failed a polygraph, or expressing frustration or anger. Interestingly, despite the interrogators' rare use of lying about a polygraph, Kassin et al. reported that their sample was more willing to use deception about having other types of evidence of the suspect's guilt (mean of 3.11 on a 5-point scale). The 16 techniques were further reduced to four factors (*isolation, rapport, and minimization; confrontation; threatening the suspect; and presentation of evidence*). Analyses suggested that "investigator characteristics associated with a tendency to presume guilt are predictive of more frequent use of psychologically manipulative and confrontational techniques..." (Kassin et al., 2007, p. 395).

More recently, Redlich, Kelly, and Miller (in press) developed a survey consisting of a large number of specific techniques used by interrogators in the United States and other countries. Their sample included a wider variety of interrogators than Kassin et al. (2007), such as federal agents (e.g., FBI, Department of Homeland Security) and military interrogators, in addition to state/local police interrogators. Redlich et al. based their survey on an interrogation taxonomy (Kelly, Miller, Redlich, & Kleinman, 2013) that identified approximately 70 unique and specific techniques that were sorted into six "meso-level" domains: *rapport and relationship building, context manipulation, emotion provocation, confrontation/competition, collaboration, and presentation of evidence*. Whereas Kassin et al. asked participants to rate how often they would build rapport with suspects, Redlich et al. included nine different indicators of rapport

building, four of which were the most frequently employed techniques (meet the suspect's basic needs; show kindness; build a bond with the suspect; be patient). Redlich et al. found that *rappport and relationship building* and *emotion provocation* were the two most frequently used domains, while *confrontation/competition* and *context manipulation* were the least frequently employed domains. Furthermore, Redlich et al. demonstrated that while the interrogation methods favored by participants varied across interrogation contexts, the *rappport and relationship building* domain served as a primary tactic regardless of context.

In a survey of police interrogators from 10 jurisdictions around the United States, Reppucci and colleagues focused on several of the more coercive interrogation methods of the accusatorial model, including ineffective methods for detecting deceit, and examined how the use of them varied depending upon the age of the suspect (Meyer & Reppucci, 2007; Reppucci, Meyer, & Kostelnik, 2010). Techniques such as observing body language or speech patterns to detect deception, asking questions repeatedly, and minimizing the seriousness of the crime were reportedly used by a majority of interrogators and at a remarkably stable rate across age groupings of suspects. Although using deceit and presenting false evidence were comparatively less favored in these studies, approximately 30% of respondents stated that they used these techniques.

Survey research can be quite useful for understanding interrogators' perceptions of the techniques they utilize; however, this methodology comes with the caveat that the results may be biased due to social desirability or other such influences. This is particularly true of behaviors that can be considered coercive or especially manipulative as some interrogation techniques can be. Accordingly, observational research (e.g., content analysis of live interrogations, recordings,

transcripts, or case files) is necessary and has been conducted to a limited degree in order to triangulate the actual practices of American interrogators.

Unlike the United Kingdom, for instance, where the recording of police interviews is mandated, American police have historically operated under no such uniform requirement. Like nearly all other law enforcement and criminal justice policies in the United States, the recording of police interrogations varies across states and practices within many states vary by jurisdiction. Fewer than 10 states require custodial interrogations to be recorded, though others strongly encourage the practice (Kassin et al., 2010; Sullivan, 2010). Although there has been an increase in the number of jurisdictions requiring video recording of interrogation, including such federal agencies as the Federal Bureau of Investigation and the U.S. Department of Defense, the vast majority of police interrogations conducted in the United States involve no audio or video record of the event. This lack of recordings has resulted in a relative dearth of observational studies from which to draw strong conclusions about American interrogation practices. As a point of comparison, it is perhaps because of the United Kingdom's law requiring police to record their interviews there is a comparatively larger body of similar British observational research.

One of the earliest observational studies of interrogation, however, was Leo's (1996) seminal work from two U.S. police departments. This landmark study demonstrated the value of systematically observing, cataloging and analyzing actual interrogations for scientific purposes. In general, Leo found that fewer than six of the 25 interrogation tactics he identified were employed in an average interrogation session. The most commonly occurring approaches included *appealing to the suspect's self-interest* and *confronting the suspecting with evidence*, two very prominent tactics found in accusatorial interrogations. Moreover, Leo reported that four tactics were significantly associated with providing incriminating information: *appealing to the*

suspect's conscience, identifying contradictory information, the use of praise or flattery, and the use of moral justifications.

Focusing on suspects aged 16 and 17, Feld (2012) similarly coded 307 interrogations conducted in Minnesota. He grouped interrogation techniques into the dichotomous categories of *minimization* and *maximization* and reported that the most commonly employed technique (or strategy or question) was *confronting the suspect with evidence, accusing the suspect of lying, urging the suspect to tell the truth*, and using *Reid Behavioral Analysis Interview (BAI) questions*. Feld categorized these as maximization techniques (i.e., those designed to increase the suspect's fears or anxiety), and noted that tactics from the minimization category were relatively less frequent in his sample (e.g., *neutralization, appealing to the suspect's self-interest, and showing empathy*). Although differences between the Feld (2012) and Leo (1996) studies may be attributed to police perceptions of effective techniques for juvenile versus adult suspects, other research has demonstrated that, by and large, a suspect's age is irrelevant with respect to interrogation methods (Meyer & Reppucci 2007, Reppucci et al., 2010; Redlich, Silverman, Chen, & Steiner, 2004).

In sum, whether it is through survey or observational research, American interrogation methods are largely – but not exclusively – associated with an accusatorial and psychologically manipulative approach. In the next section, we examine the effectiveness of these methods in light of existing laboratory research in order to draw conclusions of interrogation practices in the United States.

Assessing the Effectiveness of American Interrogation Practices

More than 50 years ago, the publication of a landmark manual on *Criminal Interrogation and Confessions* (Inbau & Reid, 1963) marked a significant point in the history of American interrogation practices. For better or worse, the accusatorial model embodied within this manual became the benchmark for law enforcement practices widely used within the United States. In the following paragraphs, we review the state of the literature with respect to the accusatorial model of interrogation, and compare its effectiveness with that of alternative methods emerging from the practices of other countries. One antecedent to change in other countries has been the role of accusatorial methods in eliciting high profile false confessions from innocent suspects (Bull & Milne, 2004).

In the United States, social scientists and legal scholars have documented hundreds of cases involving wrongful conviction over the past several decades (Scheck, Neufeld, & Dwyer, 2000). In 25-30% of these cases, innocent suspects were induced to provide a false confession or admission that ultimately led to conviction (Drizin & Leo, 2004; Garrett, 2011). Given a growing awareness of the false confession phenomenon, social scientists began systematically assessing what factors may lead an innocent person to provide a false statement, including unique characteristics of the individual that may render them more vulnerable to police questioning and the powerful influence of certain interrogation techniques that could produce false confessions. Detailed reviews of this literature are available to the interested reader (see Kassin et al., 2010; Kassin & Gudjonsson, 2004; Lassiter & Meissner, 2010); however, a brief discussion of the role of accusatorial interrogation methods is provided below, given its relevance to assessing the efficacy of police interrogation techniques.

A significant body of research stemming from both experimental paradigms in a laboratory setting (Kassin & Kiechel, 1996; Russano, Meissner, Narchet, & Kassin, 2005) and

archival analyses of known false confessions (Drizin & Leo, 2004; Garrett, 2011; Ofshe & Leo, 1997a, 1997b) suggest that accusatorial methods of interrogation can significantly increase the likelihood of a false confession (Kassin et al., 2010). For example, techniques designed to *maximize* a suspect's perception of the evidence against him (such as presenting false evidence or bluffing about the potential for incriminating evidence; see Horselenberg, Merkelbach, & Josephs, 2003; Nash & Wade, 2000; Perillo & Kassin, 2010; Redlich & Goodman, 2003) and those that attempt to *minimize* a suspect's perceptions of his culpability or the likely consequences if he were to confess (by implying leniency or offering face-saving excuses; see Horgan, Russano, Meissner, & Evans, 2012; Klaver, Lee, & Rose, 2008; Russano et al., 2005) have both been shown to increase false confessions by innocent suspects. A strong belief in the suspect's guilt on the part of the investigator has also been shown to exacerbate the use of accusatorial methods (Kassin, Goldstein, & Savitsky, 2003), promote beliefs in deceptive behaviors (Meissner & Kassin, 2002; 2004), and ultimately increase the likelihood of inducing a false confession (Narchet, Meissner, & Russano, 2011). Indeed, the psychological factors leading an innocent person to provide a false confession have been shown to involve both perceived social pressure to confess aroused by the interrogator and the potential consequences associated with confessing (vs. not) (see Houston, Meissner, & Evans, 2014; Yang, Madon, & Gyuill, in press).

While documenting techniques that may produce a false confession represents an important contribution to both theory and practice, recent research has also begun to identify those psychological processes associated with true confessions (Houston et al., 2014) and to identify those methods of interrogation that might produce diagnostic confessions statements from guilty suspects (Meissner et al., in press). For example, Horgan and colleagues (2012)

distinguished between minimization and maximization techniques that influenced suspects' perception of the likely consequences associated with confession, observing that approaches devoid of "manipulating consequences" produced more diagnostic outcomes (i.e., an increased likelihood of true confession and a reduced likelihood of false confession). True confessions were largely a product of participants' feelings of guilt or remorse and their beliefs of the evidence against them – a finding that is quite consistent with a host of laboratory studies (Houston et al., 2014), as well as surveys of false confessors (Gudjonsson & Sigurdsson, 1996; Redlich, Kulish, & Steadman, 2011).

More recently, a growing number of empirical studies have begun to assess the diagnostic utility of information gathering approaches to interrogation, such as the PEACE model used in the UK and other countries (Meissner et al., in press; see AUTHOR, this volume). Both experimental research (Evans, Meissner, Ross, Houston, Russano, & Horgan, 2013; Narchet et al., 2011) and field studies in the UK (Soukara, Bull, Vrij, Turner, & Cherryman, 2009; Walsh & Bull, 2010) have demonstrated that information gathering methods of interrogation – which involve the development of rapport, good elicitation strategies, positive confrontation, and strategic evidence presentation methods – produce more diagnostic outcomes by – increasing the likelihood of eliciting true confessions while reducing the likelihood of eliciting false confessions. Additional studies have demonstrated the importance of developing rapport, or a "working alliance", between the interrogator and the subject, particularly given its importance in facilitating suspect disclosures (Alison, Alison, Noone, Elntib, & Christinsen, 2013; Evans, Houston, Meissner, Ross, LaBianca, Woestehoff, & Kleinman, in press; Goodman-Delahunty & Howes, in press; Martschuk, Goodman-Delahunty, & Dhami, in press; Redlich et al., in press; Vanderhallen & Vervaeke, 2014; Walsh & Bull, 2012a; 2012b). Finally, strategic evidence

presentation strategies have also been developed to facilitate disclosure by guilty subjects, demonstrating that late (or gradual strategic) disclosure of evidence is more likely to produce admissions that distinguish innocent from guilty suspects (Hartwig, Granhag, & Luke, 2014; Smith & Bull, in press).

Taken together, the above research is consistent with a meta-analysis of the available literature by Meissner and colleagues (in press) that compared the diagnostic utility of accusatorial and information gathering methods of interrogation. While both methods were rather effective in producing “confessions” in observational studies of real interrogations (when compared with a set of control techniques that were common to both), experimental studies that manipulated guilt and innocence showed that information gathering approaches yielded a higher rate of true confessions while reducing the risk of false confessions.

American Interrogation at a Crossroads: Future Directions for Research and Training

Interrogation in the United States is currently at a crossroads – the methods used by law enforcement, military, and intelligence communities over the past 50 years were developed through prior experience and perceptions of effectiveness that are largely devoid of scientific validation or assessment. Recent studies, however, have called the relative efficacy of these approaches into question, with data suggesting that the use of accusatorial methods of interrogation can compel false confessions from innocent persons. This research has also begun to assess the role of alternative approaches to interrogation that appear to improve the diagnostic value of information elicited from suspects – methods that improve the development of rapport, encourage cooperation and communication, use positive confrontation and strategic presentation of evidence, and rely upon more reliable cues to deception.

The United States government via its High-Value Detainee Interrogation Group (HIG), a multi-agency group with components from the Federal Bureau of Investigation, the Defense Intelligence Agency, and the Central Intelligence Agency, has recently invested in a five-year research program aimed at developing a scientific understanding of interrogation that might leverage theory, methods, and metrics drawn from the cognitive, behavioral, and social sciences. To date, more than 60 research studies have been supported through this effort, with many of the findings reflected in the current chapter. While investigators began this research in their laboratories, the HIG facilitated further assessments of the methods with federal law enforcement and military training facilities in the U.S., leading many of these facilities to begin integrating the more effective, science-based methods into their curriculum. The HIG has also developed “research-to-practice” training packages that are being made available to other federal, state, and local entities as they work to disseminate the research findings and improve practice in this area.

Our own interactions with military, law enforcement, and intelligence personnel in the U.S. suggest that practitioners are eager to identify ethical, evidence-based methods of interrogation that will improve their ability to collect information from non-cooperative individuals. While further research and development will be vital to creating a robust understanding of the influence of key facets of an interrogation (see Evans, Meissner, Brandon, Russano, & Kleinman, 2010) – including the role of language and culture (Kelly, Abdel-Salam, Miller, & Redlich, in press), the influence of contextual or environmental factors, and an understanding of factors that might lessen resistance and improve rapport development – a monumental paradigm shift is perhaps in the offing. Rooted in cutting-edge research and increasing cooperation between research and practitioners, the treatment of non-cooperative

suspects in the United States appears to be incrementally moving toward a new model of interrogation and away from the psychologically manipulative methods of the past half-century.

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