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Interviewing suspects

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INVESTIGATIVE INTERVIEWING

THE ESSENTIALS

MICHEL ST-YVES EDITOR

PREFACE BY RAY BULL

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PREFACE

Ray Bull*

The successful conducting of interviews with suspects, witnesses and (alleged) victims is of great importance to all nations and cultures. However, until fairly recently, those whom our countries asked to do this were not given adequate training or guidance about how to do this effectively. Part of the reason for this world-wide lack of quality training was that almost no researchers had bothered to study this most crucial topic, probably because such research is very hard to do both in terms of (i) access to such interviews and (ii) how to design, conduct, and analyse the results of such research.

In the absence of evidence-based advice (that is, advice based upon good research that has survived the peer review process and published in quality research journals), until fairly recently, all that was available to interviewers was advice or anecdotes made available to them by more experienced colleagues or by interviewers in other organisations or countries who devised training programmes or wrote books based on their own intuitions.

Fortunately, in the last ten to fifteen years some pioneering researchers have been brave enough to come out of more comfortable laboratories (in which research is easier to conduct) into the real world of investigations (where quality research requires much more ingenuity than in laboratories). Among such pioneers is the editor of

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this book (Michel St-Yves) who is one of the few people who not only conducts field research, but also works very closely indeed, day-to-day, with a police organisation.

Michel’s introduction to this book describes its chapters. Here I would just like to add a few words about them. In the opening chapter Michel quite rightly focuses on the crucial topic of rapport, which, like the most important things in life—such as love—is difficult to define, but nevertheless is of utmost importance. His chapter appropriately articulates not only why establishing and maintaining rapport is necessary but also why it is so very difficult for interviewers to “keep an open mind and remain objective”. Michel also wisely reiterates what Julie Cherryman and I found in the mid-1990s—that the skill of listening is among the most paramount skills.

In the next chapter, the greatest experimental research pioneers of all (Ed Geiselman and Ron Fisher) provide a comprehensive overview and update of the ever-evolving Cognitive Interview (which fits well with the PEACE model or technique which has been taught and used nationally in England and Wales for over twenty years now). Within their update are some worthwhile notions such as interviewees being encouraged also to describe what they experienced via a non-verbal medium (such as a sketch or drawing) that is compatible with that interviewee’s “mental record of the event” and that the cognitive interview can assist suspects.

The third chapter focuses on the interviewing of children and has among its co-authors Martine Powell, who has done more than anybody in Australia (and elsewhere) to (i) point out the limitations in many interviewers and (ii) to devise appropriate training (based on psychological research and relevant theories). In this chapter overviews are presented of the various interviewing protocols that have been devised in different countries (based on psychological research and theory) to assist interviewers to interview children more effectively. Reassuringly, there is a considerable measure of similarity across the protocols—some differences between them are based on how well-trained interviewers are regarding relevant knowledge (e.g. of developmental psychology and of question types).

Eye-witnessing is the focus of the next chapter and within it are some exciting ideas concerning why witnesses make errors. No witness can ever be totally accurate, but this chapter explains why some

can give testimony that is poorer than others. It reviews and explains best practice and importantly notes some weaknesses in current best practice.

Though some pioneers (see above) are now of a similar age to me, a somewhat younger pioneer (James Ost) was brave enough to conduct very difficult research (e.g. on retractors) for his Ph.D. (which I had the pleasure of being involved with). In his chapter he discusses a variety of indicators of concern that might sometimes assist a court's or jury's need to decide whether a person's account is actually of a genuinely experienced event. He also reminds readers of this handbook that there is no reliable way of distinguishing between true and false memories.

In the following chapter, Michel and Chris Meissner (another "younger" pioneer who admirably tries to apply a methodologically rigorous and laboratory-type approach to real world topics) overview some of the literature on the interviewing of suspects, rightly pointing out that "the confession is no longer the strongest form of evidence" and that "cognitive cues" in the suspects' accounts are what are more important. In addition, their chapter correctly emphasises (as does the PEACE model) that preparation before interviews is probably of equal or even more importance than within-interview tactics.

The next chapter is written by another "early" pioneer who, for his decades of seminal work, recently received an honour (a CBE) from The Queen of England. In his chapter, Gisli Gudjonsson focuses on psychological vulnerabilities in suspects, including the important topic of those with ADHD (i.e. attention deficit hyperactivity disorder) who now constitute a large proportion of those convicted of crimes. He also notes that if interviewers reveal to suspects much of the incriminating information early on within interviews, vulnerable innocent suspects can come to incorporate this into their accounts and thus appear to have guilty knowledge.

In the penultimate chapter, yet another pioneer (e.g. of research of the highest quality on an applied topic), Aldert Vrij, addresses the topic of truth and lie detection in a way that commendably fits with this book's title words of "the essential" and "best practices". Here Aldert makes it clear that to be able to stand any chance of validly deciding whether a person is telling the truth or not, interviewers need (i) to adopt an information-gathering approach that also ethi-

cally places cognitive load on interviewees and (ii) to rely more on cues in what interviewees say (or draw) rather than on interviewees' non-verbal behaviour.

The final chapter enterprisingly has a focus on teaching and it appropriately devotes some pages to the PEACE model and to the provision of a comprehensive “Pre-Interview Aide-Mémoire”. The chapter sensibly emphasises the crucial role in effective training and learning of feedback, something behavioural psychologists have known for decades, yet is very often ignored within investigative organisations. Here I would like to provide feedback to this book's editor and authors by saying that I really enjoyed reading their inspiring words.

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INTRODUCTION

Michel St-Yves

The most perfect technique is that which is not noticed at all.

Pablo Casals

Crime scene examination is the basis of all police investigations. Specialised police officers, often called crime scene investigators, follow a strict protocol to examine where the crime took place and find clues to solve the case. The crime scene is carefully preserved because it can tell the story of what happened and often contains traces of the perpetrator. Investigative interviews should be conducted with just as much precision because they can facilitate the discovery of clues that could help solve the case through the stories collected. If it were possible, we would put a yellow ribbon around the witnesses' heads with the words "crime scene" to preserve their memory, which does indeed make up part of the crime scene, in order to avoid any contamination while waiting for the specialists to conduct their interviews. The witnesses often know what happened and, contrary to crime scenes, they can talk about it.

Conducting an investigative interview may seem easy: ask questions and listen to the answers. But it is not that easy. It is important to phrase questions properly and to know how to listen to the answers. These interviews, which constitute a considerable part of investigators' work, often hold the key to solving the case. According to certain studies, physical evidence (fingerprints, DNA, etc.) is only collected in about 10% of criminal cases.¹ This would suggest that nine out of ten cases are solved thanks to investigative interviews: a

1. Bottomley, A. K. & Coleman, C. A. (1980). Police effectiveness and the public: The limitations of official crime rates. In R. V. G. Clarke & J. M. Hough (Eds.), *The effectiveness of policing*. Farnborough: Gower; Horvath, F. & Meesig, R. (1996). The criminal investigation process and the role of forensic evidence: A review of empirical findings. *Journal of Forensic Science*, November 1996.

victim who gives a good description of her attacker; a witness who remembers a licence plate number; a suspect who, due to feelings of guilt or after having seen the evidence, confesses. The objective of an investigative interview is not only to make the witness talk, but also to ensure that his or her testimony can be heard. Testimonies verbalise facts, give them meaning and make them come to life. It is through them that we can establish the truth.

A) INVESTIGATIVE INTERVIEWING: THE ESSENTIALS

Since the early 1990s, many books and scientific articles have been written on investigative interviews. This has allowed us to develop protocols and interviewing techniques which improve the quality of these interviews and help us get to the truth sought by the judicial system. If, long ago, conducting investigative interviews was considered an art, we can now say that it is also a science. Interviews with children are generally filmed and conducted according to very strict protocols, which should inspire all types of interviews; interviews with witnesses and victims are conducted using methods which encourage free narrative, minimal interruption and open and non-leading questions. Currently, interviews of suspects, also called “interrogations”, are conducted while respecting human rights, often using an electronic monitoring device (video camera or audio recording) or in the presence of an attorney in order to protect the rights of intellectually or mentally vulnerable persons and help to prevent false confessions.

This book was written by researchers and practitioners who have studied and shaped investigative interviewing practices. Bearing in mind the reality of those working in the field and the needs of investigators, nine themes were carefully selected to include *the essentials* for those who conduct investigative interviews or who train others on how to do so. The nine chapters are presented in logical order to facilitate learning: first, the fundamental rules, then, how to conduct investigative interviews of witnesses and victims, followed by suspects and, finally, recognizing the limitations and risks inherent to these types of interviews.

1. First, the Fundamental Rules

Conducting an investigative interview is hard work and requires know-how, technical skills and, above all, people skills.

To solve a crime, investigators must consider the human relations aspect of the case, approach others and communicate. This aspect is characterized by a series of interactions, each influenced by several factors (preconceived ideas, subjective opinions, prejudice), the effect of which will necessarily have an impact, either positive or negative, on the set goals.

The first chapter presents the rules common to all investigative interviews: 1) keep an open mind and remain objective; 2) build rapport; 3) pay attention; 4) keep a professional attitude; and 5) know how to conclude. These fundamental rules are the basis for all investigative interviews, and constitute a good safety net to prevent falling into the many traps these situations may present.

2. Interviewing Witnesses and Victims

Most investigative interviews involve witnesses and victims. Several studies from North America and Europe conclude that the vast majority of criminal cases are solved with the help of witnesses.² It becomes all the more important then that the facts collected be accurate. Research has shown that the human mind does not operate like a computer and that we do not encode events exactly as they occurred. False information can be encoded into memory and errors also occur during recall. This is why memories of an event must be carefully preserved and recalled methodically, as soon as possible, to avoid contamination.

In chapter 2, Ed Geiselman and Ron Fisher, two eminent psychology professors who first developed the cognitive interview, describe the steps to follow in order to encourage memory recall without altering the quality of the narrative. With the help of communication tools and mnemonic techniques, this interview method allows investigators to collect a greater quantity of accurate details (between 25 and 100 % more) than when using standard police interview techniques.³ It is the most well-known interview method in the world and the one that has withstood the most scientific testing.

2. See Mucchielli, L. (2006). L'élucidation des homicides: de l'enchantement à l'analyse du travail des enquêteurs de police judiciaire. *Déviante et Société*, 30(1), 91-119.

3. See Fisher & York (2009). Enhancing Eyewitness Memory with the Cognitive Interview. In M. St-Yves & M. Tanguay (Eds.), *The Psychology of Criminal Investigations: The Search for the Truth* (pp. 41-62). Toronto: Carswell.

Although this method was initially developed for use with witnesses and victims, the authors also present a version that has been adapted for use with suspects. In addition to increasing the quality of the narrative, it could also prove useful in more accurately distinguishing truths from lies.

3. Interviewing Children

Interviewing children is, without a doubt, one of the areas that has been studied the most over the last two decades. Methods and protocols, tested through research, have led to the development of very specialised training for police investigators so that they may conduct high quality interviews with witnesses and victims whose memory is fragile and vulnerable to all types of influences, but still contains part of the truth. In chapter 3, Mireille Cyr, Jacinthe Dion and Martine Powell, three researchers specialised in child interviews, update us on the progresses made in the research on this topic and present *the essentials* to bear in mind in order to conduct quality interviews with children.

4. Mistaken Identification

Interviewing witnesses and victims also presents certain risks. Not only the risk of contaminating their memory, but also of moulding it. Memory is the gray matter of investigative interviews. However, memory is not infallible; it is a faculty which can be transformed by our senses and over time.

Mistaken identifications made by eyewitnesses are the primary cause of judicial errors. These mistakes play a part in about 75% of wrongful convictions later repealed based on DNA tests.⁴ Although eyewitness testimony is often convincing proof when presented before a judge or a jury, science has proven that eyewitness testimony is often unreliable. Research on visual and auditory memory has revealed that information is stored in two seconds or less and a large part of it is quickly forgotten.⁵ This explains why witnesses often

4. Innocence Project (2013). *Innocence blog: Wrongful convictions affect all New Yorkers*. Website: <http://www.innocenceproject.org>.

5. Atkinson, R. C. & Shiffrin, R. M. (1971). Human memory: A proposed system and its control processes. In K. W. Spence (Ed.), *The psychology of learning and motivation: Advances in research and theory* (pp. 89-195). New York: Academic Press.

confuse what they actually saw with what they see when they think back on the event.

In chapter 4, Lorraine Hope and James Sauer, two specialists of memory and of its imperfections, explain why and how these mistaken identifications occur and suggest ways to avoid this risk.

5. False Memories

Research on memory and how sensory information is treated has given us a better understanding of how a person stores a memory and how it can be recalled, but also why this memory is often flawed and sometimes even erroneous. Because people do not treat sensory information by way of high fidelity brainwaves, error is inevitable and it is unlikely that the narrative given by a witness is entirely true. It is even possible for the brain to produce false memories, including memories of traumatic events that never took place or that are nothing more than old memories altered by time or imagination.

Over the last several years, the “recovered memory” phenomenon has garnered much attention, namely after the discovery of several cases of alleged traumatic childhood sexual abuse reported to police many years later when memories of these events suddenly resurfaced. These “recovered memories” present a real puzzle for police officers, as it is not easy to know which memories are real, which are false and which are a combination of both. How does this phenomenon occur? Can we detect it? James Ost, psychologist and specialist often called upon to deal with these issues, answers those questions in chapter 5.

6. Interviewing Suspects

The literature on interviewing techniques is abundant and divided into two categories: *practical* manuals, written by experienced investigators who have achieved “success”, which often aim to present police officers with strategies to obtain confessions, and *scientific* books, written by academics who generally have no field experience and are mainly concerned with the risks associated with certain interview techniques. Practitioners must take into account research on the effects of certain interview techniques and recommendations made to reduce risk, namely the risk of contaminating

the truth and of obtaining false confessions. As for researchers, they must focus on the needs of those in the field and adopt a positive and collaborative approach in order to better serve justice. They cannot focus solely on weaknesses and criticize current practices, disregard them by considering only cases of false confessions and miscarriages of justice, nor should they limit themselves to comparing practices from one country to the next, but rather they should participate in the implementation of best practices⁶ and efficient methods that respect fundamental human rights.

Since there is no consensus on interview techniques and given the fact that they vary considerably depending on the legal framework in which they take place, in chapter 6, Chris Meissner, psychologist and specialist of investigative interviewing, and I discuss the interviews of suspects from a perspective that is both scientific and practical, focused mainly on a better understanding of the suspect's psychology and of the decision processes generated by interrogation techniques. This allows for a better understanding of why certain strategies are efficient while others present risks.

7. False Confessions

It is impossible to talk about investigative interviews conducted by police officers without mentioning the associated risks, namely the risk of false confessions, which, in turn, can lead to wrongful convictions. It is difficult to estimate the number of miscarriages of justice, because several are never detected, but false confessions remain far less frequent than mistaken identifications. According to the Innocence Project, in nearly 25 % of exoneration by DNA cases, accused persons who were innocent made incriminating declarations, confessed or pled guilty. These cases highlight that confessions are not always motivated by personal knowledge of events or real guilt, but that they are sometimes influenced by external forces. Mental vulnerabilities, intellectual deficiencies, attention-seeking, pressure from peers or the police are all elements that must be considered to avoid the occurrence of errors. Professor Emeritus in forensic psychology and renowned expert on false confessions, Gisli Gudjonsson explains what motivates certain suspects to confess to crimes they did not commit and, more importantly, how to prevent such situations.

6. Meissner, C. A., Hartwig, M. & Russano, M. B. The need for a positive psychological approach and collaborative effort for improving practice in the interrogation room. *Law & Human Behavior* (2010).

8. Detecting Lies: Myths and Limitations

Many falsehoods and few truths have been written about lying. And people's opinion of their ability to detect lies is generally founded on purely subjective indicators, devoid of any scientific basis.

Investigators are constantly called upon to distinguish between truths and lies. Their only tool is their general impressions, also known as "gut feelings". Although they often have the opportunity to test their lie detection abilities and generally consider themselves quite able to do so precisely,⁷ studies have shown that their success rate is around the 50% mark, the same result as a coin toss.⁸ Also, their decisions are generally based on non-verbal cues, although most studies show that such indicators are quite subjective and much less precise than verbal behaviour, i.e. the narrative.⁹

What does the research teach us about lie detection? What interview methods facilitate lie detection? What are the limitations and myths associated with lie detection? Aldert Vrij, the researcher most often referred to in this field, answers these questions in chapter 8 and tells us the truth about lies.

9. Teaching Investigative Interviewing

If teaching investigative interviewing seems relatively recent, its teaching informed by the extensive research conducted on this topic is newer still. Although certain universal weaknesses remain (leading questions, frequent interruptions, etc.), we now know that the greatest weakness often lies in how these investigative interviewing techniques are taught. Training programs, when they exist, are

7. According to an Australian study, 88% of police investigators believe themselves to be able to detect lies. See Hill & Moston (2011). *Police perceptions of investigative interviewing: Training needs and operational practices in Australia*, 72-83.

8. Vrij, A. (2000). *Detecting lies and deceit. The psychology of lying and the implications for professional practice*. Chichester, U.K.: John Wiley & Sons.

A study conducted simultaneously among 150 people, mainly experienced investigators, to whom we showed an excerpt of a real investigative interview and to whom we asked to weigh in on the suspect's credibility, allowed us to observe that 52% of respondents believed that he was telling the truth while he was, in fact, lying. Among them, 62% were sure of their answer. See St-Yves, M. (2012). *Qui dit vrai? Débat sur l'évaluation de la crédibilité et la détection du mensonge*, 5th International Conference on Investigative Interviewing, École nationale de police du Québec, September 10-12.

9. Vrij, A. (2008). *Detecting lies and deceit: Pitfalls and opportunities* (2nd ed.), Wiley.

not all structured and the quality of their contents depends generally on the trainer and whether he or she is grounded in field work or theory or, ideally, a mix of both.

The last chapter is a collaboration between several researchers and practitioners, all from different backgrounds. Guy Bruneau, Michel Carmans, Mireille Cyr, Fiona Gabbert, Andy Griffiths, Martine Powell, Christophe Sellie and I assess the evolution of training programs and their current state (their strengths and weaknesses), in order to suggest ideas and tools to improve efficient retention over time of the abilities acquired during training. We conclude with an *aide-mémoire*, developed together by several authors of this book, to put into practice the teachings and best practices in investigative interviewing.

B) THE ESSENTIALS

What are *the essentials* of investigative interviewing? That is the question each author of this book was asked to answer. Given that the body of research in this field is growing rapidly and that practices are in constant evolution and the object of much more scrutiny than before, each author, according to his or her expertise, placed emphasis on what he or she considers vital to conducting proper investigative interviews: what one must know and understand, what cannot be ignored, what is fundamental and necessary, in short, *the essentials*.

CHAPTER 6

Interviewing Suspects

Michel St-Yves and Christian A. Meissner

We never feel so great a degree of repugnance in divulging what is really criminal, as what is merely ridiculous.

Jean-Jacques Rousseau, *The Confessions*

The interrogation¹ of suspects is undoubtedly the most challenging type of investigative interview. From the very outset of the interview, investigators must inform interviewees of their right to remain silent and their right to immediately consult legal counsel—who, most probably, will advise them to remain silent. Under these circumstances, it requires great skill, and sometimes creativity, to obtain information relevant to criminal investigations without infringing on suspects' rights.

The quest for a confession often motivates investigators to use strategies and techniques that are controversial, either because they are illegal (e.g., torture) or because they entail risks or are ethically problematic (e.g., certain so-called “persuasive” techniques). Such techniques may violate suspects' rights, and are more likely to elicit false confessions (see Kassin & Gudjonsson, 2004). On the other hand, it has been estimated that a significant proportion of crimes (up to one third, according to some authors) would never have been resolved without a confession (Cassell, 1999; Inbau, Reid, Buckley & Jayne, 2001; Irving & McKenzie, 1989; Leo, 1996; McConville, 1993; Moston, Stephenson & Williamson, 1992; St-Yves & Deslauriers-Varin, 2009). Horvath and Meesig (1996) have demonstrated that technical evidence is

1. In this chapter, “interrogation” refers to an interview with a suspect.

available in less than 10% of police investigations. It is hardly surprising, therefore, that the police deploy a wide variety of information-collection strategies in order to bring their investigation to a successful conclusion.

The conduct of police interrogations varies considerably from country to country, reflecting variations in legal frameworks, including the type of custody, presence of lawyers, and recording (audio or video) of the interview (see St-Yves, Sellie & Vuidard, 2013). In turn, the legal framework influences the model of interrogation. Thus, accusatorial methods are particularly common in North America, where the emphasis is on extracting a confession. On the other hand, approaches that limit the use of techniques that are unethical or prejudicial to the suspect are increasingly common in Europe and Australia, where the emphasis is on collecting information. An example of this latter approach is the PEACE² model, developed in the United Kingdom—where, in fact, the term “interrogation” has been banished from police parlance because of its coercive connotation, and the preferred term is now “interview”, regardless of whether the interviewee is a suspect, witness, or victim.

This chapter will first review the weight currently given to confessions in the legal system, and describe the primary factors associated with confessions and denials. This will be followed by an examination of the psychological characteristics of suspects, and an overview of the conduct of interrogations, from preparation to conclusion. The primary stages of police interrogations (common to most models) and suspects’ psychological processes during this type of interview will also be discussed. Some strategies used by the police to influence the decision making of suspects and overcome resistance will be reviewed, and the chapter concludes with a discussion of the value of best practices in conducting successful interviews and reducing the likelihood of false confession.

A) THE IMPORTANCE OF JUDICIAL CONFESSION

Judicial confession is a person’s avowal of the truth of an allegation against him or her (Bénézech, 1995, p. 63). This *mea culpa* was long considered absolute evidence, and led directly to conviction. It was only in the 19th century that the courts began to ques-

2. Planning and preparation (P), Engage and explain (E), Account (A), Closure (C), Evaluation (E).

tion some of the methods used to obtain confessions, and hence the admissibility of confessions as evidence. Although confession is no longer the gold standard of evidence, extracting one remains, for many police investigators, the principal objective of an interrogation.

The criteria for what constitutes a confession and when a confession is admissible as evidence are essential for situating the role of interrogations in current legal systems. However, definitions of confessions vary widely, from a simple nod of the head or “yes” to a detailed description of the crime, complete with corroborating details (details known only to the perpetrator and the police) that allow authentication of the confession. For Leo (1996), true confessions must be detailed and verifiable, but Cassell and Hayman (1996) consider mere denial to be sufficiently incriminating in some circumstances, especially when the police are able to prove the falsehood of the suspect’s statement.

Confessions are sometimes the only way to obtain a conviction, and may even lead to the resolution of related investigations. Even when they do not directly lead to convictions, they may further investigations by collecting evidence and information related to circumstances, motives, or the crime itself (Phillips & Brown, 1998).

Suspects who confess during interrogation are 20% more likely to be charged and 26% more likely to be convicted (Leo, 1996), as well being more likely to receive severe sentences. Kassin and Neumann (1997) demonstrated that confession has a stronger impact on jury decisions than many other types of evidence, including eyewitness testimony. As Hans Gross (1901) pointed out, confession is a unique psychological phenomenon that is difficult to explain, since it is invariably prejudicial to the person confessing.

1. Why Do Some People Confess their Crimes and Others Deny Them?

People confess to crimes for many reasons, some counterintuitive. Some people confess to clear their conscience, or because they feel a need to be punished—sometimes even if they have committed no crime (Reik, 1973). Others do so when faced with incontrovertible evidence. It has been estimated that 40-60% of suspects

confess (Baldwin & McConville, 1980; Cassell & Hayman, 1996; Clark & Milne, 2001; Deslauriers-Varin & St-Yves, 2006; Irving & McKenzie, 1989; Leo, 1996; Mitchell, 1983; Moston & Stephenson, 1992; Neubauer 1974; Pearse *et al.*, 1998; Phillips & Brown, 1998; Softley, 1980; St-Yves, 2004a; St-Yves & Tanguay, 2009; Zander, 1979). Confession rates are reported to be higher among minors (Courvoisier, 2013; Ruback & Vardaman, 1997).

On the other hand, an equal number of people do not confess to the police. The primary motivation for failure to confess is fear of consequences, including loss of integrity, imprisonment, as well as social (loss of spouse, family, friends), financial, and employment costs. From a suspect's perspective, the stakes are often high and the benefits negligible.

2. The Decision Making Process: To Confess or Not?

Confession is a dynamic process influenced by the interaction of many individual, social, emotional, cognitive, and situational factors (Deslauriers-Varin, Lussier & St-Yves, 2011; Gudjonsson, 2003; Houston, Meissner & Evans, 2014; Irving & Hilgendorf, 1980; Moston, Stephenson & Williamson, 1992; St-Yves, 2004b). Suspects interrogated by the police must make a complex series of decisions: Talk or remain silent? Tell the truth or lie? Tell all the truth or only part? These decisions depend on a suspect's perception of the choices available at that moment, the instrumental value of the choices (based on a cost-benefit calculation), and the probable consequences of the choices (Irving & Hilgendorf, 1980; see also Cornish & Clark, 1986, on rational choice theory).

3. Internal and External Pressure

Internal pressure arises from feelings of guilt and responsibility, and the need—sometimes compulsive (i.e., irrepressible)—to confess. According to psychoanalytical theory, when the superego (which controls and censures the ego) transgresses a rule or social norm, it develops a strong feeling of guilt and a need for self-punishment. Under these circumstances, guilt is an attempt by the superego to reconcile the ego (the self) and the id (the pleasure principle) (Reik, 1973). Or, as Victor Hugo observed: Remorse is the corrosion of a soul crushed by crime.

Confession may also provide a feeling of liberation and valuable catharsis (Berggren, 1975). Almost 40% of suspects report feeling relieved after confessing, and a comparable proportion report having confessed because they felt guilty (Gudjonsson & Bownes, 1992; Gudjonsson & Petursson, 1991; Gudjonsson & Sigurdsson, 1999; Sigurdsson & Gudjonsson, 1994; St-Yves, 2002). Houston, Meissner and Evans's (2014) meta-analysis indicates that true confessions obtained under controlled conditions are associated with perceived guilt about, and responsibility for, the crime under investigation. However, feelings of guilt are insufficient on their own to elicit confessions. St-Yves (2002) observed that slightly more than half (52%) of convicted sexual offenders who reported feelings of guilt or remorse did not admit their crime to the police.

External pressure may be exerted by a suspect's family or peers, or may be the result of interrogation strategies. Threats and promises, even subtle ones, may drive suspects to confess—even if they have done nothing wrong—simply to put an end to pressure they find unbearable (Kassin & McNall, 1991). Furthermore, legal cautions (right to remain silent, right to legal counsel) may be real or perceived external pressures. For example, the legal caution in use in the United Kingdom indicates: *You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence*³. In other words: it's now or never. This form of pressure is similar to the scarcity principle, described by Cialdini (2009). This manipulative and persuasive tactic, widespread in sales, may induce false confessions (Houston *et al.*, 2014).

Although “pressure” is undoubtedly the most controversial issue in police interrogations, most authors agree that it is inevitable, at least in theory, and probably necessary for confession (Gudjonsson, 2003; Inbau *et al.*, 2001; St-Yves & Tanguay, 2009). While pressure may originate in the suspect (internal pressure) or elsewhere (external pressure), and may be real or only imagined, its mere existence means that confession, although sometimes desired, is never completely free and voluntary (St-Yves, 2004b, p. 49).

3. *Code of Practice C*, 10.1; Burke, T., Street, R. and Brown, D., 2000, p. 27.

B) THE SUSPECT'S PSYCHOLOGICAL CHARACTERISTICS

Confession is the temptation of the guilty.

Georges Bataille

1. Introverted Personality

Individuals with an introverted personality are the most likely to confess (Gudjonsson & Petursson, 1991; Gudjonsson & Sigurdsson, 1999; St-Yves, 2002; 2004c). The propensity of introverts to confess appears to be due, in part, to these individuals' anxiety, fears, lack of confidence, and social malaise. And in fact, anxious individuals have difficulty coping with the pressure of interrogations (Gudjonsson & Petursson, 1991). All this points to the importance of building rapport with these suspects, making them feel valued, and listening to them (St-Yves, 2004c). Suggestibility during police interrogations has been reported to be associated with social desirability bias (Gudjonsson, 1983; Haraldsson, 1985) and low self-esteem (Gudjonsson & Clark, 1986), two traits often found in introverts. Furthermore, conformism and vulnerability to anxiety are strongly associated with the need to confess (Gudjonsson & Sigurdsson, 1999).

Eysenck and Gudjonsson (1989) found that introverts were more likely than extroverts to experience feelings of guilt when transgressing rules—and the obligation to tell the truth is a rule these individuals are faced with during an interrogation. Suspects usually confess in order to eliminate or reduce anxiety elicited by the interrogation: when internal pressures reach a critical level, the suspect is purported to tell the truth (Jayne, 1986). Inbau, Reid and Buckley (1986) have noted that individuals with a low tolerance for anxiety become visibly nervous during interrogations and exhibit nonverbal behaviors, including avoidance of visual contact. However, one should not conclude that every visibly nervous suspect has committed a crime; such individuals may be nervous simply out of fear for being accused of a crime they did not commit (Kassin, 2006).

Because confession is a visceral process in introverts (St-Yves, 2004c), tactics that increase internal pressure (guilt, remorse, or psychological need to confess) are likely to prove useful. Concretely, interviewers should focus on a suspect's emotions,

in order to allow the suspect to explain his or her acts. Gudjonsson and Petursson (1991) report that introverts are more likely to explain their crime as an impulsive, unpremeditated act related to a loss of control. Investigators must be empathetic and compassionate during the interrogation of introverts, as these interviews are likely to elicit intense emotions in these suspects (Jayne & Buckley, 1999; St-Yves, 2004c).

Introverted suspects are often emotional during the interrogation, especially at the moment of their confession. For many, confession is a form of deliverance; those who feel this way are most likely to tell investigators that they are happy that it's all over now, and that it did them good to talk about it. Introverts are more likely than extroverts to express compassion for their victims and their victims' loved ones. They generally feel guilty and shameful about their crime, in some cases to the point of wanting to apologize to the victim and the victim's family.

2. Extroverted Personality

Individuals with an extroverted personality are the least likely to cooperate with the police (Gudjonsson & Petursson, 1991; Gudjonsson & Sigurdsson, 1999; St-Yves, 2002; 2004c). In a study of confessions by sexual criminals, St-Yves (2002) observed that criminals with an extroverted personality—and particularly those with narcissistic traits—were the least likely to confess to the police. While introverts appear to view confession as a personal issue (related to self-esteem and integrity), extroverts appear to view it primarily as a public one (related to image and reputation) (St-Yves & Tanguay, 2009). Gudjonsson and Petursson (1991) observed that extroverted suspects, especially those with antisocial traits, were more resistant to police interrogation. It is almost superfluous to note that this is also true of suspects with a psychopathic profile—particularly because of their narcissistic and antisocial characteristics, absence of remorse, and tendency to be manipulative, and chronic liars (see Hare, 1991, 1998).

This relationship between an extroverted personality and a tendency to not confess appears to reflect, in large part, these suspects' absence of guilt and remorse for their crimes—they feel no need to confess (see St-Yves, 2002). It is also possible that extro-

verts' lower anxiety levels allow them to cope more effectively with the pressure of interrogations than introverts. Extroverts, particularly antisocial extroverts, have more extensive criminal records than introverts, and their greater experience with police interrogations may also explain their lower confession rate (Evans, 1993; Leo, 1996; Neubauer, 1974; Softley, 1980; St-Yves & Tanguay, 2009).

Internal pressure may be less effective in provoking confession in extroverts, because confession in these suspects is a cerebral, not visceral, process. These individuals are calculating, and they attempt to ascertain the strength of the evidence, in order to determine their best strategy: Should they keep silent or provide a version of events that will allow them to escape as lightly as possible? To this end, they exhibit interest in the evidence investigators have collected (“What makes you say that I did it?”). If they think the evidence is conclusive, they seek the best outcome under the circumstances (“What’s in it for me if I tell you?”). The confession of their crime is intimately linked to their understanding of the strength of the evidence. Investigators must therefore emphasize the weight of evidence against them. While the interrogation of introverted suspects resembles a therapy session or meeting of the minds, the interrogation of extroverts resembles a chess game, a one-on-one confrontation.

C) THE INTERROGATION

The word “interrogate” is derived from the Latin “interrogare”—to ask at intervals. An interrogation is an interview at which one questions someone about one or more specific points they are thought to know and about which they must answer. It is, by definition, an *imposed* interview: one *submits* to an interrogation, *suffers* an interrogation, *worms* information out of someone, *extracts* a confession. This duress may be more or less explicit, but explains why interrogations are perceived or described as oppressive to some extent.

1. To Accuse or to Gather Information?

Researchers have assessed the utility of various models of interrogation used in different countries—two general forms of

interrogation have been identified. While *accusatorial methods* are commonly used in the United States, Canada, and many Asian nations (Costanzo & Redlich, 2010; Leo, 2008; Ma, 2007; Smith, Stinson & Patry, 2009), countries such as the United Kingdom, Norway, New Zealand, and Australia employ *information-gathering methods* of interrogation (Bull & Soukara, 2010). Generally speaking, information-gathering and accusatorial interrogation methods can be distinguished along a number of dimensions. Information-gathering methods seek to establish and maintain rapport within the interview, and use direct, positive confrontation of the suspect to elicit confessions or other self-incriminating statements. These methods also take a strategic approach to introducing the available evidence against the defendant and identifying contradictions in a narrative (see Bull, 2014; Granhag, Stromwall, Willen & Hartwig, 2013). In contrast, accusatorial methods generally seek to establish control of the suspect and use psychological manipulation (e.g., minimizing the perceived consequences associated with confession or the culpability of the suspect with regard to the alleged crime) to achieve confession. These methods also frequently present evidence of guilt early in an interrogation, sometimes including the introduction of false evidence, as a method of maximizing a suspect's perception of the evidence against him. As such, these two methods result in different questioning approaches, with information-gathering methods relying upon open-ended, exploratory approaches and accusatorial methods employing closed-ended, confirmatory approaches. The two methods also differ in their intended goals. Whereas information-gathering methods place a premium on obtaining information, accusatorial approaches aim to obtain confessions. Finally, the two methods can be contrasted on the basis of the cues to deception that they purport to elicit, with information-gathering methods focusing more on the contents of the suspect's narrative (cognitive cues) and accusatorial methods purporting to manipulate the nonverbal behaviour of the suspect (anxiety-based cues).

Research examining these two approaches to interrogation has been conducted over the past decade. In a recent systematic review of this literature, Meissner, Redlich, Bhatt, and Brandon (2012) concluded that accusatorial methods were more likely to increase the chances of eliciting a false confession, while information-gathering methods appear to protect the innocent yet preserve investigators' ability to elicit true confessions from guilty

persons. Research has also shown that information-gathering approaches elicit more guilty knowledge from suspects (Evans, Meissner, Ross, Houston, Russano & Horgan, 2013), and as a result produce more diagnostic cues to lying (Vrij & Granhag, 2012; Vrij, Granhag, Mann & Leal, 2011).

2. Points Common to Most Interrogations

Regardless of locale, good police interrogations share a number of features, such as respect for basic human rights (systematic and rigorous reading of legal cautions), building rapport with the interviewee (for more on the importance of interpersonal dynamics see Holmberg & Christianson, 2002; St-Yves, Tanguay & Crépault, 2004; Vanderhallen, Vervaeke & Holmberg, 2011), listening to the suspect's version of events (ideally through the use of neutral and open-ended questions), presentation of evidence (to stimulate confession), and affording suspects the opportunity to explain inconsistencies in their narratives and the motivation for their crimes. While the use of strategies, deception, and persuasion is part of the culture of interrogation in North America and elsewhere, recourse to coercive methods and to promises is generally prohibited by law and refrained from in practice

3. Preparation for an Interview with a Suspect

Planning and preparation are key to a successful interview (Baldwin, 1992; St-Yves & Landry, 2004). In their study of the PEACE model, Bull and Soukara (2009) found that it was preparation (the "P") that was the most important. Good preparation improves the quality and outcome of interviews (Walsh & Bull, 2010). It is during the preparatory stage that the interview's objectives are defined, the optimal timing of the interview is determined, and strategies to reach the stated objectives are identified. If nothing else, investigators must ask themselves the following questions during the preparatory stage:

- 1) What is known about the interviewee, and what information about him or her does the interview seek to establish?
- 2) How strong is the evidence? What are the suspect's possible counter-arguments?

- 3) What remains to be proven? How can the interview contribute to the investigation?
- 4) What is the probable motivation for the crime?
- 5) What are the suspect's possible fears (which may inhibit confession)?

The answers to these questions allow investigators to set objectives and identify questions that will allow them to attain these objectives. It is not always necessary to target a confession: sometimes a contradictory or false version of events, or missing information, can suffice. Effective interrogations establish guilt or innocence, confirm existing information, or obtain new information.

Good preparation also includes planning how the interviewee will be taken into custody (time, place, manner), how the interrogation room is furnished (comfortable chairs for the investigators and suspect), the positions of the investigator and others present (other investigators, lawyer, parent, tutor, interpreter, etc.), and what every participant's role is (who takes notes, who asks questions, etc.). In investigations of major crimes and those involving multiple arrests, preparation may take several hours, even days.

Despite the importance of this preparatory stage, inadequate preparation is the most significant weakness observed in police investigators (Baldwin, 1992, 1993). Hill and Moston (2011) found that preparation time was practically non-existent (0-15 minutes: 46%), and that very few (4.6%) investigators devoted at least an hour to preparation. The main reasons invoked for this lack of preparation were workload and the limited time made available by the investigator's supervisor.

4. Preparation of Questions

The objective of interrogations is to collect information on both suspects and the circumstances of the crimes they are thought to have committed. To meet interview objectives, investigators must prepare questions that will help them understand the suspects and explore the circumstances surrounding their crimes. Obviously, one of the goals of these interviews is also to obtain a

suspect's narrative of events, free of interviewer contamination. For this purpose, open-ended questions, such as "Tell me everything that happened that day" and the use of interview protocols such as the Cognitive Interview (Fisher & Geiselman, 1992; Geiselman, 2012; Griffiths & Milne, 2006; Memon, Meissner & Fraser, 2010) can both facilitate disclosure and improve credibility assessment.

The next step is the progression to more focused questions, which allow the collection of additional detail. These generally start with *Who? Where? When? How? Why?*, and if necessary may lead to closed-ended questions such as "Was he armed?" (Griffiths & Milne, 2006, p. 182).

The foregoing notwithstanding, investigators tend to eschew open-ended questions, which generate more detailed answers that are less influenced by the questions, in favour of leading or suggestive ones (Griffiths & Milne, 2006). Schreiber, Compo, Hyman, Gregory, and Fisher (2012) observed that, on average, investigators asked 64 questions per interview, most of which (59%) were yes/no questions; in descending order, the remaining questions were forced-choice (26%), open (11%), and multiple choice (4%). Most interviews (87%) primarily comprised of leading or suggestive questions. Inappropriate questions were more frequent when the investigator had already decided that the suspect was guilty, regardless of the evidence (Moston, Stephenson & Williamson, 1992). Such questions not only are counter-productive but also are highly likely to contaminate a suspect's account.

5. The Stages of a Police Interrogation

Interrogation tactics may be classified as appropriate or inappropriate, reflecting legal considerations and established ethical guidelines. There is clear consensus about the inappropriateness of some tactics, notably coercive methods, including intimidation. This reflects not only legal and ethical considerations but also the increased likelihood of false confessions associated with such tactics (see Kassin & Gudjonsson, 2004; Meissner *et al.*, 2012). Equally, there is consensus about the appropriateness of tactics such as the use of open-ended questions, and the confrontation of suspects with inconsistencies and evidence. However, the use of

themes (suggested scenarios), the maximization or minimization of the crime, and the presentation of false evidence are judicially and ethically controversial—while legally permissible within certain jurisdictions, research suggests that these tactics may produce false confessions (Kassin *et al.*, 2010). Therefore, the rarity of interrogation-related miscarriages of justice since the introduction of video recording demonstrates that some “persuasive” tactics can be used effectively and safely (St-Yves, 2009).

This section will review the stages common to effective models of interrogation, with an emphasis on suspects’ psychological processes rather than the technical details of the interrogation. The following seven steps will be described:

- 1) Greeting the suspect and informing of rights
- 2) Building rapport and gathering information / questioning
- 3) Obtaining the suspect’s version of events
- 4) Presenting evidence
- 5) Exploring the suspect’s motivation and overcoming his or her fears
- 6) Authenticating the confession
- 7) Concluding

Step 1. Greeting the Suspect and Informing of Rights

First contact with the suspect has a decisive effect on the success of investigative interviews (Shepherd & Kite, 1988; St-Yves, Tanguay & Crépault, 2004). Historically, interrogation rooms were small rooms with only a few chairs (the least comfortable of which was reserved for the suspect) and a small table on which the investigators could take notes. Today, however, an increasing number of interview rooms are friendly places that are, in particular, more comfortable for suspects. The period of first contact allows investigators to ask interviewees about their general condition and address any concerns they may have following

their arrest (e.g., plans that have been disrupted). If possible, interviewees' concerns should be allayed before commencing the interview. This also facilitates attempts at establishing rapport.

It is essential to inform suspects of how the interview will play out and of their rights, especially their right to remain silent and their right to legal counsel. Investigators must not only advise suspects in due form of their rights, but must ensure that these rights are fully understood. This is especially important when suspects are minors, or mentally or intellectually vulnerable. Suspects younger than 15 years do not always fully comprehend their rights and the consequences of their interrogation-related decisions (Grisso, 1980, 1981; Kostelnik & Reppucci, 2009; Redlich, Silverman & Steiner, 2003; Viljoen & Roesch, 2005; Viljoen, Klaver & Roesch, 2005), and tend not to avail themselves of their rights (Courvoisier, 2013; Viljoen, Klaver & Roesch, 2005). Furthermore, they are more sensitive to the stress surrounding interrogations, which not only affects their judgement (Furby & Beyth-Marom, 1992; Spear, 2000), but also renders them more suggestible (Singh & Gudjonsson, 1992), ultimately increasing their vulnerability to providing a false confession (Gudjonsson, 2003). For all this, however, police often fail to recognize this challenge and treat minors similar to that of adults during interrogations, using the same tactics, with little regard for issues of cognitive development (Meyer & Reppucci, 2007).

Police often consider a suspect's recourse to legal counsel an obstacle to cooperation (Leiken, 1970; Walsh, 1982), in part because some studies have reported that suspects who avail themselves of the right to remain silent or their right to legal counsel are less likely to confess (Deslauriers-Varin & St-Yves, 2006; Leo, 1996; Moston, Stephenson & Williamson, 1992; Phillips & Brown, 1998). However, Moston, Stephenson, and Williamson (1992) observed that suspects who availed themselves of the right to remain silent were more likely to be convicted than were those who denied their guilt during interrogation. The right to remain silent is thus not always to the suspect's advantage.

Although a suspect may avail himself or herself of the right to remain silent, investigators do have, in some jurisdictions, the right to ask him or her questions—to which the suspect is free to answer or remain silent. But it is human nature, a question of habit, a reflex, to answer questions. This ritualistic response

imposes structure on conversation, and explains why individuals respond spontaneously when asked their name, age, and many other questions that establish the interpersonal dynamic that constitutes communication (see Boyd & Heritage, 2006; Schiffrin, 1977).

Step 2. Building Rapport and Gathering Information / Questioning

Interpersonal dynamics are extremely important in investigative interviews. Building rapport with interviewees has a positive impact on the conduct of the interview and on its outcome (see Abbe & Brandon, 2012, 2014; Holmberg & Christianson, 2002; St-Yves, Tanguay & Crépault, 2004; Vanderhallen, Vervaeke & Holmberg, 2011). To build rapport, investigators may rely upon certain principles of persuasion (Cialdini, 2009), such as attempts to develop liking by establishing similarities (“common ground”). This approach allows investigators to establish familiarity at the outset of an interview, which facilitates the building of rapport with the suspect, and orients the investigator towards the person, not the crime (see Williamson, 2007). Examples of common ground include recreational and sporting activities, and personal situations. Establishing similarities is the embodiment of Byrne’s (1971) attraction paradigm: we are influenced more strongly by those we like than by those we do not. Sympathy may be elicited by physical beauty, attitudes (inclination to listen and understand, respect) and familiarity, and compliments and praise generally accelerate the attraction process (Kacmar, Delery & Ferris, 1992). Disclosing personal information to the suspect (“self disclosure”), such as prior experiences or preferences, can also facilitate rapport (Vallano & Schreiber Compo, 2011) by establishing the social influence principle of reciprocity (Cialdini, 2009).

The Power of Touch

The use of touch in investigative interviews is a delicate and controversial issue (Abbe & Brandon, 2012, 2014). Interviewees may perceive touching as a form of manipulation, coercion, or dominance (Guéguen, 2004; Major & Heslin, 1982; Storrs & Kleinke, 1990), especially if they are suspects. While touching may be spontaneous and sincere, it may also be strategic and calculated. In all cases, however, its goal is to establish proximity and familiarity

with the interviewee. A number of studies have reported that touching considerably increases the probability of acceding to a request (Keinke, 1977). In a study conducted in a supermarket, Smith, Gier, and Willis (1982) observed that 19% of participants who tasted a sample of pizza bought the product—but that this percentage doubled (37%) if the participant had not only tasted the pizza but also been touched on the arm by a demonstrator.

Immediacy Behaviors and Active Listening

When engaging with a suspect, it is important to display attention and engagement. Immediacy behaviors help create a feeling of closeness with the person being interviewed. These “immediacy behaviors” can include verbal behaviors such as calling the suspect by his or her first name, using the pronoun “we”, and non verbal behaviors such as facial expressions, orienting your body towards the suspect, engaging in eye contact, and leaning forward (Abbe & Brandon, 2014). Cultural norms should always be considered, and behavioral displays should appear non-threatening to the person being interviewed. Verbal behaviors that signal active listening should also be used, including encouragements (“O.K.,” “I see”, “hum hum”), summarizing what the suspect has just said, also called reformulating, or repeating back a subject’s responses (Vecchi, Van Hasselt & Romano, 2005). This indicates to the suspect that the investigator is really listening. Restricting interruptions when the suspect is speaking will also signal respect and increase information that is elicited (Fisher & Geiselman, 1992).

Asking Pertinent Questions and Anticipating Answers

To collect information, one must ask questions. But before getting to the heart of the subject and asking the suspect for his or her version of events, investigators should ask indirect questions related to the events. In the case of a shaken baby, for example, the investigator may ask the suspect about the birth, health, and sleeping habits of the infant (the victim), who took care of the infant, etc. Such questions can signal interest, empathy, and respect. Sometimes, the answers to these questions are enough to form an idea of what happened. Investigators may also ask questions intended to validate other information, or foreclose the possibility of dubious explanations by the suspect, either during his or

her narrative or when confronted by evidence. For example, if the suspect answers “Who came into contact with the child that day” with “Only me”, he or she cannot subsequently allege that someone else caused the injuries to the child. It is only after obtaining all these answers that the investigator should question the suspect about his or her version of events: “Tell me everything you did that day, from getting up until contacting emergency services to report the child’s difficulty breathing.”

Behavioural Observation Questions

Inbau *et al.* (2001) suggest investigators proceed to behavioural observation questions once the suspect has provided his or her version of events. These questions are usually personalized and prepared in advance. They are presented progressively, from questions that are general and non-accusatory to questions that directly target the suspect. For example: “In your view, what type of person could commit an act like this?”; “In your view, how do you think that person feels today about what he or she did?”; “What should happen to that person?”; “Do you think it’s important for that person to be given an opportunity to explain themselves?” The goal of these questions is typically to elicit a reaction, either verbal or nonverbal, and evaluate the suspect’s answers in order to determine whether he or she committed the crime. The answers and reactions to these questions may be interesting and may provide investigators with insight about the suspect, the suspect’s motivation, and the suspect’s fear of consequences. They do not, however, allow investigators to objectively evaluate whether the suspect is telling the truth, let alone whether he or she committed the crime. Kassin and Fong (1999) observed that individuals trained in verbal and non-verbal cues to deception associated with the Reid technique were less accurate than untrained students in detecting falsehood, but more confident of their assessment. Meissner and Kassin (2002) further observed that investigators trained in such cues to deception were more likely to demonstrate a bias towards perceiving deception (or “guilt”) on the part of the suspect (see also, Kassin, Meissner & Norwick, 2005; Meissner & Kassin, 2004). A direct assessment of the Behavioral Analysis Interview (based on the work of Horvath, Jayne & Buckley, 1994) by Vrij, Mann, and Fisher (2006) demonstrated that the behaviour of liars and truth tellers actually contradicted what was expected based upon that proposed by Inbau *et al.* (2001). While police officers estimate that

they can detect falsehood in 77% of cases (Kassin *et al.*, 2007), the success rate of professionals is rarely better than chance (see Bond & DePaulo, 2006; Vrij, 2008).

Usually, the series of behavioural observation questions culminates in a question about the suspect's involvement in the crime under investigation. This question, commonly known as the "bait question", is intended to strengthen the perceived weight of evidence and seed doubt in the suspect about errors he or she may have committed or about compromising elements. This question is presented in a strictly hypothetical manner, and while the presentation of false evidence is permissible in the United States, the use of non-existent or fabricated evidence may render a confession inadmissible as evidence in other countries (*R. v. Oickle*, para. 61). This manipulation of the perception of the evidence (exaggeration or false representation) is strongly criticized by some researchers given empirical data suggesting that the use of such tactics can increase the probability of a false confession (Kassin *et al.*, 2010; Kassin & Kiechel, 1996; Kassin & Gudjonsson, 2004; Meissner *et al.*, 2012; Perillo & Kassin, 2011; Redlich & Goodman 2003).

Step 3. Obtaining the Suspect's Version of Events

The objective of obtaining a suspect's version of events is to discover new investigative elements, offer the suspect the opportunity to explain himself or herself, and give the suspect the opportunity to prove his or her innocence—which may indeed be the case (St-Yves & Landry, 2004, p. 19). If the suspect committed the crime under investigation, his or her version of events may corroborate and elucidate the evidence. Obtaining the suspect's version of events is a critical moment of the interrogation, the one suspects fear the most. This is the suspect's opportunity to tell the truth, deny the facts, or remain silent. Suspects who have committed no crime will tend to feel that telling the truth will exonerate them (Hartwig, Granhag & Strömwall, 2007). Paying close attention to the suspect's version of events will allow investigators to remain open, and less vulnerable to preconceived ideas (Ask & Granhag, 2007, p. 564).

The way the question is formulated has a direct impact on the suspect's answer. An open-ended question (e.g. "Tell me about what happened that day.") will elicit a detailed answer, while a forced-choice question (e.g. "Did you kill that person?") will elicit a

brief yes/no answer (see Griffiths & Milne, 2006). Questions that target the suspect's motivations (e.g. "Why did it happen?") or emotions ("How do you feel sitting here now?") often will elicit an emotional response from the suspect. Use of the cognitive interview in eliciting a cooperative statement from a suspect can be quite effective in increasing the amount of information that suspects can recall from memory about an event (e.g., an alibi or employment history), and facilitate judgments of truth and deception when determining culpability (see Geiselman, 2012; Memon *et al.*, 2010).

At this stage, questions are often improvised and formulated with no regard to their impact, which leads to problematic phrasing. The most common errors are leading or suggestive questions ("Are you normally aggressive when you drink?"), ill-timed confirmatory or targeted questions ("Where were you last night, with whom, and how long did you stay?"), and forced-choice questions ("Did you hit or push that woman?"). Research suggests that investigators should maintain an open and investigative mindset that limits the presumption of guilt to the extent possible—biases towards perceiving guilt can lead to a process of behavioral confirmation in which presumptive and leading questions, and aggressive interrogation tactics produce behavioral reactions in the suspect that confirm an investigators' presumptions. Such reactions are independent of the factual guilt or innocence of the subject (Kassin, Goldstein & Savitsky, 2003) and in the case of innocent suspects such a process of behavioral confirmation is more likely to produce a false confession (Narchet, Meissner & Russano, 2011).

As this step is the turning point of the interrogation, and often the moment the suspect fears the most, the suspect may decide to avail himself or herself of the right to remain silent rather than give his or her (true or false) version of events. If the suspect does provide a version of events, the investigator must ask for details about anything that is not perfectly clear, follow-up any contradictions, and analyse the suspect's statement closely in order to corroborate it.

Step 4. Presenting Evidence

Although obtaining a confession is dependent on many factors (Gudjonsson, 2003; St-Yves, 2004a), the suspect's perception of the police's evidence is the overriding one (Cassell & Hayman,

1996; Deslauriers-Varin, Lussier & St-Yves, 2011; Gudjonsson, 2007; Gudjonsson & Petursson, 1991; Kebbell, Hurren & Roberts, 2006; Leo, 2008; Moston, Stephenson & Williamson, 1992; Sellers & Kebbell, 2009). Williamson (1990) reported that two out of three suspects (66.7%) admitted their crime when the evidence appeared strong, compared to one in three (36.4%) when the evidence was perceived as modest, and one in ten (9.9%) when there was little or no evidence. Gudjonsson *et al.* observed that almost 70% of suspects admitted that they would never have confessed had they not been suspected by the police, and 55-60% confessed because they were sure that the police possessed enough evidence to charge and convict them (Gudjonsson & Bownes, 1992; Gudjonsson & Petursson, 1991; Sigurdsson & Gudjonsson, 1994). Deslauriers-Varin and St-Yves (2006) observed that suspects who perceived the evidence against them as relatively strong were almost twice as likely to confess (31.4% vs. 55.6%). Suspects understand that denial is pointless in the face of overwhelming evidence, and that there are only two possibilities open to them: remain silent or give a version of events that allows them to explain what happened and obtain the best possible outcome under the circumstances.

Because the strength of the evidence influences the decision to confess, investigators use a variety of strategies to present it. For example, the investigative process, or the actual evidence (fingerprints, DNA results, eyewitness accounts), may be described in detail (see St-Yves & Lépine, 2012). The stronger the suspect believes the evidence is, the greater the chance of obtaining a confession. In the absence of sufficient evidence, investigators have resorted to employing halo effects in which they exaggerate the strength of evidence or allude to the collection of evidence that will confirm the guilt of the suspect – the impact of such a presentation in leading to false confessions, however, undermines the value of this approach (see Perillo & Kassin, 2011).

It is not always easy to present the evidence in a detailed, rigorous, and clear manner. However, this is one of the most important steps of the interrogation, and the way this is done will determine whether the suspect cooperates or not (Deslauriers-Varin, Lussier & St-Yves, 2011; Moston, Stephenson & Williamson, 1992). The art of presenting the evidence to the suspect is the key to the whole interrogation. It is the evidence, not the investigator, that should be confrontational. To this end, it is necessary to

master the evidence, resist the temptation to present it too early, and present it to the suspect as an explanation.

The impact of this key factor, well known to the police, is why investigators tend to present evidence as early as possible (Kassin *et al.*, 2007). Very often, evidence is presented at the outset of the interrogation, in an accusatory manner. This approach is typical of interrogations in the United States—Leo (1996) reported observing it in 85% of cases. The different approaches used in the United States and the United Kingdom may reflect different objectives, with American interrogations oriented towards obtaining confessions and United Kingdom ones oriented towards obtaining information (Gudjonsson, 2003; Meissner *et al.*, 2012).

However, many recent studies have demonstrated the value of presenting the evidence later in the interview (Baldwin, 1992; Bull & Milne, 2004; Hartwig, Granhag, Strömwall & Vrij, 2005), and doing so in a sequential manner with increasing specificity (Bull, 2014; Granhag *et al.*, 2013; Luke *et al.*, 2013). A later presentation increases the chances of obtaining a confession (Sellers & Kebbell, 2009) and facilitates attempts at assessing credibility (Vrij & Granhag, 2012; Vrij *et al.*, 2011). In Yeschke's (2003) view, investigators should first build rapport with the suspect (by demonstrating fairness and compassion), rather than directly confront the suspect with evidence, which may hinder rapport. According to Jordan *et al.* (2012), revealing evidence later does not penalize the innocent, but does trap the guilty, as liars become more inconsistent than those telling the truth. Granhag *et al.* have suggested progressively increasing the specificity of the evidence presented, beginning with vague descriptions and building to specifics. This method leads to more diagnostic determinations of guilt or innocence when statement-evidence consistency is examined (Granhag *et al.*, 2013; Luke *et al.*, 2013).

Another argument in favour of presenting evidence later is that this prevents the suspect from using previously presented evidence to fabricate a self-serving account of events (Sellers & Kebbell, 2009). Guilty suspects may provide accounts that eventually prove incompatible with the facts (Hartwig *et al.*, 2005). Furthermore, later presentation of evidence allows the confession to be authenticated against facts not yet revealed by the investigators (Inbau, Reid, Buckley & Jayne, 2005; Powell & Amsbary, 2006).

Investigators should also consider the reliability of the evidence in-hand: for example, witness testimony may be inaccurate due to errors of memory, and facts and technical evidence may be misinterpreted (even in the forensic science arena). A suspect confronted by such inaccuracies may feel tricked, and become wary, resentful, and uncooperative. Because investigators' persuasiveness is highly dependent on their credibility (Palmiotto, 2004) and because evidentiary errors may affect credibility (Sellers & Kebbell, 2009), investigators must ensure that the facts they have at their disposal are reliable. They must therefore be prudent and not go beyond the real limits of the evidence.

Step 5. Explore the Suspect's Motivation and Overcome His or Her Fears

To influence the suspect's decision making, investigators present elements of the investigation that suggest that the suspect committed the crime. Often, suspects give their versions of events and explain themselves because they believe that they have no other option. And it is through these explanations that they attempt to minimize their crimes, render them more acceptable, and save face. Once a suspect understands that the police possess evidence, he or she seeks to minimize the consequences—often by explaining his or her motivation.

Investigators often attempt to facilitate confession by suggesting explanations for the suspect's behavior, e.g., drug consumption, financial problems, psychological trauma, etc. These may be completely hypothetical or based on the suspect's own words during the interrogation. Inbau *et al.* (2001) term this approach a "theme". Such tactics rely on psychological defense mechanisms such as minimization (reduction of the frequency or intensity of acts), projection (attribute blame), and rationalisation (deny criminal intent), leading a suspect to reduce his or her responsibility, shed blame on the victim or on society, etc., in a manner that renders reality less threatening, less painful. Unfortunately, such techniques that maximize or minimize consequences facilitate not only true confessions by the guilty but also false confessions by the innocent (Horgan, Russano, Meissner & Evans, 2012; Klaver, Lee & Rose, 2008; Russano, Meissner, Narchet & Kassin, 2005). Appleby, Hasel, Shlosberg, and Kassin (2009) found that 80% of individuals providing a false confession

supplied a motive for the crime, 65% minimized or excused their involvement, 40% expressed remorse, and 25% apologized. The more elaborate the confession, the more credible they appeared—despite the fact that they were all provided by innocent individuals (Appleby *et al.*, 2009). Together, this research suggests that great care should be taken in the method of exploring a suspect's motivations and overcoming objections.

Why Before How

It is human nature to try to explain things. Suspects often find it easier to say *why* they committed a crime than *how* they committed it (St-Yves, 2013). This is particularly true for so-called “shameful” crimes, such as sexual crimes and child abuse. A father will more easily confess to having been tired and acting impulsively simply to quiet his baby than describe the way he actually shook the infant. The *why* is thus often the gateway to the confession. The *how* subsequently allows investigators to corroborate previously obtained facts and confirm the authenticity of the confession.

Identify Fears

Despite all the investigator's efforts to facilitate confession and the presence of overwhelming evidence, some suspects persist in denying the facts or refuse to confess. The main reason for this resistance is likely a fear of consequences. In fact, everyone interrogated by the police fears losing something if he or she is found to be guilty or admits to the crime (“If I confess, I may lose everything...”). As the consequences are usually proportional to the gravity of the crime, the more serious the crime, the lower the confession rate (Moston, Stephenson & Williamson, 1992; St-Yves, 2002). The nature of the crime may also inhibit confession: for example, sexual crimes are among the most difficult to admit (Holmberg & Christianson, 2002; St-Yves, 2002, 2004d). As long as these inhibiting factors (fears) are present, the suspect will probably continue to deny everything or refuse to confess, even if the police present solid evidence.

There are two primary types of factors that inhibit confessions: real (sometimes termed “concrete”) consequences, and personal consequences (Gudjonsson & Bownes, 1992; Gudjonsson & Petursson, 1991; Sigurdsson & Gudjonsson, 1994). The inhibitory

effect of these factors is so strong that suspects who experience guilt and believe that the police possess sufficient evidence may nevertheless persist in denying their guilt or remaining silent.

– Real/concrete consequences

Real (or *concrete*) consequences are the eventual consequences suspects consider as they are interrogated for a crime; one of the most common is fear of penal sanctions (Gudjonsson, 2003), including the loss of liberty (imprisonment) and, in some cases, the death penalty. Suspects with no previous experience with the legal system may fear acquiring a criminal record and, especially, the attendant consequences, such as loss of employment or difficulty finding employment. In general, the more serious the crime, the more severe the punishment (Esyenck & Gudjonsson, 1989). Suspects whose confession incriminates others may fear retribution—which may be more frightening than any legal sanctions.

Other feared consequences of confession include alienation of those close to the suspect (spouse, children, family, friends), loss of employment, and financial loss (insurance premiums, fines or refunds, legal fees, etc.). All of these are potentially quite real, which is why they may inhibit confession. They are, nevertheless, not immediate, and suspects may hope that those close to them will forgive them, that their employer will be understanding, that the judge will show clemency.

– Personal consequences

Personal consequences are often more feared than concrete ones, as they are immediate and affect the suspect's integrity and self-esteem. As soon as a suspect admits his or her crime, he or she loses face—initially in his or her own eyes, and then in the eyes of those close to him or her, starting with the investigator. This is particularly true in the case of sexual crimes (see Holmberg & Christianson, 2002). In some cases, investigators' attitudes (namely if the suspect feels judged or fears others' judgment) may exert an inhibitory effect (St-Yves, 2004b).

Overcoming Fears

To overcome suspects' fears it is first necessary to identify and anticipate them. For example, a person who stole from his or

her employer will no doubt fear loss of employment; a person who sexually abused a child will fear losing those around him or her (especially if he or she is a parent), and, if applicable, his or her position as a teacher. Many suspects also fear losing their liberty (i.e., imprisonment), their reputation, etc. Investigators may attempt to overcome these personal fears by engaging in positive self-affirmations with suspects, helping them preserve part of their self-esteem (i.e., save face) and integrity, and allowing them to find a more “acceptable” way of confessing. Investigators can directly ask the suspect what he or she fears: “What are you afraid of? Are you afraid of going to prison? Losing your family? What other people think of you?” Overcoming such inhibitions require naming the fear, talking about it, and exploring the suspect’s (entirely normal) apprehensions. Importantly, investigators must take care not to minimize, explicitly or implicitly, the potential consequences of the crime. In addition to being legally and morally problematic, this approach can lead the innocent to confess (Horgan *et al.*, 2012).

Step 6. Authenticate the Confession

Unfortunately, a confession is often used to compensate for the inadequacy of material evidence (Baldwin, 1993). The pressure exerted on suspects is generally inversely proportional to the quality of the evidence—a context that has great potential to bring about false confessions (Kassin, 2005). Confession also sometimes allows investigators to know and understand the suspect’s *mens rea* (criminal intent), which, in Aristotle’s words, “creates guilt and crime”, and which, in Jean le Rond d’Alembert’s words, “must at least provide an excuse for the act”. Confession also provides protection against the wrong person being charged. It is only when confession replaces the rest of the investigation that the likelihood of false confessions increases (Mucchielli & Clément, 2006, p. 270).

While false confessions are believed to be rare (Cassell, 1999; St-Yves, 2004e), a surprising number of such cases have been documented, particularly in the United States (see Drizin & Leo, 2004). It is therefore important to never forget the dramatic and irreversible consequences of such errors. Suspects who make false confessions are not invariably mentally vulnerable. Sometimes they are simply tired of being questioned, and believe that they will have an opportunity to recant later or that their confession cannot be used as evidence in court. Moreover, some people believe that they can

go home after they confess, even if their confession is false (Thomsen, 2004). False confessions occur more frequently in the course of long interrogations (Leo & Ofshe, 1998).

In general, false confessions are associated with coercive methods or some forms of psychological manipulations (Kassin *et al.*, 2010). The only way to ensure that a confession is authentic is to have evidence, know the truth, or be able to corroborate the suspect's version of events by independent evidence. Of course, the suspect's version of events must be free of interviewer contamination and include points that only the perpetrator of the crime in question would know (see Garrett, 2011).

According to Leo and Ofshe (1998), investigators should ask three questions to determine the authenticity of a confession:

1. Did the confession lead to the discovery of evidence that was previously unknown to police? For example, did it lead to the discovery of the weapon used in the crime or the location of stolen objects?
2. Did the confession contain details that were unusual and not known to the general public? For example, did the suspect explain why and how he carved a cross on the victim's stomach with a knife?
3. Did the suspect provide a precise description of unpublished details of the crime scene? For example, was he or she able to describe the clothes the victim wore, or the room (which he or she could not have visited previously) in which the crime was committed? It is necessary to ensure that the confession is not due to contamination, which is to say that the suspect had not learned of details of the crime scene through a third party (e.g., media, police, photographs, another person, including the real perpetrator; see Ofshe & Leo, 1997; Leo & Ofshe, 1998).

As mentioned by Cassell (1999), proving the innocence of a suspect may be as difficult as proving his or her guilt.

Step 7. Concluding

The end of an interrogation is often highly emotional. Suspects who have confessed know that they must now face justice and

the consequences of their acts. They are anxious about the next steps, especially if they have no experience with the legal system. Investigators will have obtained what they sought, but must preserve the rapport they built during the interview. An important part of preserving rapport is explaining to suspects the legal procedures to come and answering any questions they may have. It is as important to leave a good final impression as it is to make a good initial one: it may become necessary to meet with a suspect again, or the suspect may decide to contact the investigator to provide further information about the crime—or even about other crimes.

In this final stage, the interviewer must do everything possible to allow the suspect to preserve or restore his or her dignity. Sometimes that is all he or she has left.

6. Control Mechanisms

There are two main control mechanisms to ensure the quality of interrogations and reduce the likelihood of false confessions: the presence of a lawyer and audiovisual recording. The presence of a lawyer during the interrogation ensures that the suspect's rights are respected and that the interview is conducted appropriately. It should be noted, however, that the role of lawyers varies considerably from country to country (see St-Yves, Sellie & Vuidard, 2013) and their presence is not always systematic or free.

Audiovisual recording avoids miscarriages of justice, by reducing the number of false confession, or at least facilitating their identification. An increasing number of countries have a policy of recording interrogations. Recording has no negative effect on confession rate, and recorded interviews appear to generate many more answers and provide more incriminating information than handwritten statements (Geller, 1992; Grant, 1987). In addition to providing a verbatim record of the interrogation⁴, audiovisual recording encourages investigators to conduct interrogations of

4. The Alaska Supreme Court, in *Stephan* (1985), enumerated several other benefits, notably: 1) Recording compensates for the inaccuracy of human memory and the fact that people forget specific facts or reconstruct and interpret past events differently; 2) Recording helps lower and appeal courts determine the truth (*L'enregistrement audiovisuel des interrogatoires des suspects ou des accusés: Rapport d'étape*, 1996).

better quality⁵ while protecting them from unjustified criticism (Kassin, Kukucka, Laws & DeCarlo, in press; Pitt, Spiers, Dietz & Dvoskin, 1999). This both decreases the number of false confessions and increases the value of confessions as evidence. Several courts have noted that “recording provides an objective record which judges may use to assess the free and voluntary nature of a confession, the circumstances in which a confession was made, and the content of the confession, in place of subjective and biased statements by the protagonists” (*L’enregistrement audiovisuel des interrogatoires des suspects ou des accusés: Rapport d’étape*, 1996, p. 51). Audiovisual recording protects the innocent, ensures the admissibility of legitimate confessions, shields investigators against allegations of coercion, and provides a record of the climate in which the interrogation was conducted, as well as the attitudes and nonverbal language of the protagonists (see Sullivan, 2010). It is an effective means of preventing miscarriages of justice (Kassin, Drizin, Grisso, Gudjonsson, Leo & Redlich, 2010), and one of the most reliable records of the conduct of interrogation.

CONCLUSION

Although evidence is the most important element in a criminal investigation, the police do not always have enough evidence to charge or convict perpetrators. In fact, this situation is the norm, not the exception. Evidence therefore often relies on testimony... including the suspect’s.

This chapter has shown how police interrogations are complex affairs fraught with legal and ethical issues. As we have seen, today’s interrogation techniques rely on a sound understanding of the factors that influence suspects’ decision making. Furthermore, the application of best practices not only improves the outcome of suspect interviews but also considerably reduces the likelihood of false confessions.

It is of course true that the quest for confession comprises some risks: of these, the most important is the temptation to seek a

5. The Minnesota Supreme Court, in *Scales* (1994), also enumerated advantages of recording, including: 1) The reduction of the number of challenges related to cautions and recanting; 2) Improvement of the professionalism of law and order personnel (*L’enregistrement audiovisuel des interrogatoires des suspects ou des accusés: Rapport d’étape*, 1996).

scapegoat rather than the truth. But without this quest for confession, many criminals would never have been convicted and the truth would remain forever unknown (see Cassell, 1999; Deslauriers-Varin & St-Yves, 2006; Inbau, Reid, Buckley & Jayne, 2001; Phillips & Brown, 1998; Stephenson & Moston, 1994). To better manage the risks associated with police interrogations, it is important to thoroughly understand the psychological processes that lead a person to confess. To this end, investigators must build rapport with suspects, as this increases suspects' inclination to cooperate. Investigators must also provide opportunities for suspects to explain their acts or deny their guilt. Investigators can explore—within the limits prescribed by law—the reasons for the suspect's criminal acts. All this must be conducted in a manner that is non-confrontational from start to finish—regardless of the final outcome.

Although confession is no longer the preeminent form of evidence, interrogations do result in many crimes being solved. The methods used to interrogate suspects are numerous and often controversial. It is for this reason that the courts increasingly demand that a witness (lawyer, recording) be present during these interviews. Audiovisual recording is becoming more common as a means to ensure that the interview is conducted appropriately and as a method to reduce the likelihood of false confessions and attendant miscarriages of justice. While interrogations cannot always uncover the truth, audiovisual recording at least allows the truth to be known about the means used to obtain a confession.

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