Interrogation

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Recorded history is replete with accounts of interrogations. The Roman scourges, ordeals of the Middle Ages, Cold War brainwashing, and Guantanamo waterboarding are but a few examples of extreme interrogation methodologies. While there presumably are documented cases in which torture, sensory or sleep deprivation, and threats against person and family have coerced people into making statements that were later verified to be true admissions of guilt, such tactics more commonly result in false admissions, and are beyond the boundaries of acceptable legal and ethical practice. For some of the same and additional reasons, the use of chemicals such as sodium amytal and Sodium Pentothal ("truth serum") and hypnosis are not considered legally acceptable interrogation methodologies.

The stereotype of widespread abusive interrogations in present-day law enforcement or school situations is a fiction unsupported by case law, research, and practice. Criminal investigators and school administrators are simply interested neither in procedures that make them look incompetent because of incorrect decisions nor methods that would have correct decisions set aside because of illegal practices.

Defining interrogation

Interrogation is the art of persuading a guilty person to tell the truth in a legally acceptable manner. As such, it incorporates many related forms of communication. Interrogators must be able to interpret accurately verbal and paralinguistic behavior, both in terms of truth and deception and with regard to effectiveness of the statements presented. Interrogations are not interviews or interrogatories as conducted in the legal profession, though questions may be asked during an interrogation. There are, of course, investigative interviews such as the behavioral analysis interview (Horvath, Blair, & Buckley, 2007) and the PEACE interviewing model (Fisher & Geiselman, 1992) during which admissions and other acknowledgments of guilt might occur. These, however, are still interviews, not interrogations, and primarily part of the investigative process. Rather, interrogation is an accusatory, not investigative, process practiced on individuals who the investigation indicates are lying about their guilt or involvement in a specific event.

Interrogations typically consist of a series of statements made by the interrogator that attempt to persuade a deceptive person to tell the truth. As such, interrogations are actions

The International Encyclopedia of Interpersonal Communication, First Edition.
Edited by Charles R. Berger and Michael E. Roloff.

DOI:10.1002/9781118540190.wbeic0220

that only occur in the latter phases of an investigation, after crime scene investigations, investigatory interviews, polygraphs, and forensic testing all point to an individual's guilt. They occur at the end, not the beginning, of the search for the person actually responsible for the issue under investigation. One of the essential conditions for a successful interrogation is confidence in the suspect's guilt. The more elements pointing to this conclusion, typically the more confident the interrogator will be when making accusatory statements. Some interrogations can be quite lengthy and therefore both physically and emotionally draining on both the interrogator and the person being interrogated. It is extremely difficult, if not impossible, to sit in a room and accuse someone of a serious crime for an hour or more if one is not very confident, based on the investigation, that the subject is actually guilty of what the interrogator is accusing them of doing.

Practicing interrogators have long described and taught interrogation as a process distinct and separate from investigative interviewing. Unfortunately, some recent researchers intentionally confuse the interviewing and interrogating processes (Gudjonsson & Pearse, 2011). Laboratory interviewing studies using student subjects that reverse the recommended sequence of events by first accusing (interrogating) before asking diagnostic questions (interviewing), produce findings with lower detection of deception accuracy than field studies using actual criminal suspects that are interviewed without prior accusations (Buckley, 2012). Likewise, laboratory studies that completely omit the investigative process or only examine isolated clips of cognitive interviews typically report lower accuracy than studies that look at responses in a context that more closely resembles field situations. However, since all of the laboratory studies have many additional significant confounding factors, premature interrogation may be only one of the causes for the reported results (Reid & Associates, 2012).

The terms "confession" and "admission" are also often confused and complicate evaluations of interrogation practices and error rates. Admissions are merely acknowledgments of guilt ("I did it") and can be true or false. Confessions are acknowledgments of guilt that can be independently corroborated ("I did it and here's where you'll find the gun I used"). Most, if not all, of the published laboratory research regarding interrogation actually involves only admissions, not confessions. The issues of both false admissions and false confessions are, of course, important and some admissions can never be completely corroborated. Just as DNA evidence consistently shows that erroneous or even false eyewitness identification is by far the most frequent cause of false criminal convictions (Innocence Project, 2014), agreeing to plead guilty (plea and charge bargaining) while knowing one is innocent of the charge being pled is not the same as being convicted (found guilty) when actually innocent.

Factual approaches—plea and charge bargaining

Ninety to 95% of federal and state criminal cases in the United States are resolved in a process of plea and charge bargaining (Devers, 2011), a form of quid pro quo. Here the subject agrees to acknowledge guilt, usually to a charge far less serious than that for which they were originally suspected, in exchange for significantly reduced judicial,

prosecutorial, and investigative time and costs. While certainly the most common method of obtaining admissions of guilt, plea bargaining is a relatively new phenomenon, only becoming the norm in the United States in the early 20th century (Dervan & Edkins, 2013). Plea bargaining is almost always a negotiation that occurs between the prosecution and the subject's legal representative, but it is occasionally used as a last resort by criminal interrogators when all other legally acceptable options have been exhausted. Sometimes referred to as the factual approach, the interrogator must first have the approval of the legal authority who can accept the plea (prosecutor). Essentially, the interrogator lays out the case against the person being interrogated, specifically mentioning physical and testimonial evidence, both obtained and anticipated, clearly indicating guilt. The interrogator then offers the "deal," the reduced charge and consequences the subject must plead to in exchange for reduced investigative, prosecutorial, and court time and costs. At the time the interrogator promises the "deal," there must be a sincere expectation it will be kept or any resulting admission or confession could be excluded for being obtained using a false promise of leniency.

One should be aware that when subjects acknowledge guilt without any "deal," there might arise a false expectation of leniency—that the interrogator owes the subject a reduction of negative consequences in exchange for the admission. Unless something is actually promised, there is simply no implied obligation to do anything more than would normally be required under any other circumstances. Finally, there is a very practical reason for interrogators to make every effort to keep the "deal." It is not uncommon for the same interrogator to have future dealings with the same subject, as well as the subject's family and acquaintances. Interrogators who demonstrate through their actions that they are not to be trusted can expect to have very little success dealing with subjects who have learned the interrogator makes false promises. This same caution applies for interrogators who might consider adding legally acceptable trickery and deceit as a subroutine to whatever interrogation technique they employ. No one is going to trust another with an admission once proven untrustworthy by being caught lying. Laboratory research reporting high rates of false admissions when deceptive practices are part of the study method consistently fail to consider the very practical reasons why the use of such subroutines is not widespread. This alone could explain why similar high false admission rates have not been found in field research or by the courts.

The factual approach, when it involves an actual plea, has the psychological disadvantage of allowing the guilty to escape the more significant consequences that statutes require. Also, plea bargaining fails to address the issue of the subject's actual innocence or guilt. If interrogations are attempts to obtain the truth, not merely an acknowledgment of guilt, plea bargaining should be considered more of a subroutine that occasionally occurs during interrogations or a stand-alone exercise at persuasion, with an objective distinct from interrogation. Some research indicates that truly innocent people may accept guilty pleas as a simple time and cost expediency or, far more problematically, to avoid the threat of more serious legal consequences, even if the threat is unlikely or untrue (Dervan & Edkins, 2013). As a variation, one interrogation training organization describes a version of the factual approach that again begins with the obvious—the suspect has been caught and anyone looking at the evidence will clearly

see that he or she is guilty. Without offering a "deal," the interrogation simply allows the suspect to see that telling the truth is the intelligent way to resolve the situation.

Finally, prosecutors and interrogators using the factual approach must be careful not to make statements maintaining the subject's situation is hopeless, with no alternative except admitting guilt. Even if it were true that someone's guilt could be factually proven, if the facts were discovered using improper methods, the subject might still be found not guilty as a matter of law. The factual approach is based upon the premise that guilty people only admit their guilt for logical reasons, for example, to minimize punishment. While there most certainly are interrogation subjects for whom this premise holds true, there are many people who are willing to truthfully admit their guilt for emotional reasons—even when this appears irrational from a legal or researcher's standpoint.

Authoritarian or aggressive techniques—the parental approach

After plea bargaining, the second most common interrogation technique used today—and certainly the oldest—is the authoritarian technique. Here the interrogator uses his or her size, power, or authority to simply demand the truth: "You did it so confess!" (Kassin & Fong, 1999). This approach is found in all cultures and is practiced by both genders in nearly all domestic, educational, and criminal justice interrogation situations because it often works—the subject "confesses." Most people tasked with the responsibility of resolving events in criminal or educational situations receive little formal training or are even aware of alternative methods of eliciting truthful admissions of guilt. Since there is a high probability that the parental approach was the method used on the interrogator by the interrogator's own parents, most interrogators default to what they themselves have experienced. The problems that arise from any highly aggressive method are self-evident to any practicing interrogator. The line between legally acceptable and undue coercion is neither static nor clearly defined. While some subjects consider jail a familiar, desirable environment, others find any form of detention extremely stressful. Being threatened or even verbally abused can be a way of life for some, while others may be completely traumatized by such actions. At the very least, admissions obtained using the authoritarian technique are extremely vulnerable to challenges of undue duress and coercion, regardless of the validity of the admission. Unfortunately, some researchers have defined all forms of verbal elicitation to be coercive, further obfuscating considerations of what constitutes undue coercion.

Emotional approaches—the Reid technique

The emergence of an alternative, noncoercive interrogation technique can be traced back to the creation of the first scientific crime laboratory in 1933 at Northwestern University in direct response to the 1929 St. Valentine's Day murders in Chicago.

Northwestern Law School professor Fred Inbau was the director who assigned a young lawyer, John Reid, to look into the newly emerging field of instrumental detection of deception, the polygraph. The mission then—and presumably of all later crime laboratories—was to use forensic science to improve decision accuracy in criminal investigation. In addition to making polygraph testing a true, scientific endeavor with diagnostic accuracy comparable to MRIs and CT scans (Crewson, 2001), it should come as no surprise that Reid and Inbau also contributed immensely to the fields of forensic interviewing, psychological integrity testing, and criminal interrogation. Following the classic scientific procedure, Professor Inbau spent long hours standing behind a two-way mirror (later, audio/video recordings) as John Reid interviewed, polygraphed, and interrogated while Inbau noted the verbal and nonverbal behavior of actual victims, witnesses, and suspects in real, criminal cases. Eventually, the two formalized their procedures into what is today commonly referred to as the Reid technique, internationally taught as the nine steps of interrogation. The evolution of the technique is detailed in five editions of a text and series of course workbooks, *Criminal Interrogation and Confession*.

The Reid technique involves three different components: case fact analysis, interviewing, and interrogation, all of which have the common goal of eliminating the innocent and focusing the investigation on the person most likely to be guilty. Only if all legal and suitability requirements have been met may the interrogator begin: by stating the purpose of the interrogation and that the results of the prior investigation clearly indicate the subject committed the act under investigation (Step 1). The interrogator then carefully evaluates the subject's response to the accusation. If the interrogator concludes the response to be typical of the correctly accused guilty, rather than the falsely accused innocent, and all other legal, physical, and emotional conditions are satisfied, the interrogator begins to work with the subject to develop a face-saving excuse or theme (Step 2). This is the heart and soul of the Reid technique and based on what people actually do in real, field situations. Themes are psychological excuses that allow the guilty subject to minimize the moral wrongness of the act while acknowledging responsibility for committing the act. The concept of excusing oneself also explains why the Reid technique is accepted and effective across so many different cultures, since it rests upon one of the more profound observations of human nature: people find it extremely difficult to admit to an act they believe to be morally wrong without being allowed to couple the admission with a face-saving excuse minimizing moral culpability. The idea that many people, emotionally, want to admit to serious criminal acts while simultaneously not suffering proportionate punishment appears completely irrational and illogical until one remembers that many serious crimes are themselves irrational and illogical. It is important to point out that minimizing moral responsibility is not equivalent to minimizing legal consequences, the essence of plea bargaining and the factual approach.

What Reid and Inbau simply did was to reverse the process of personal justification. Instead of waiting for the guilty to think of a face-saving excuse, they offered excuses they had heard from previous subjects in similar cases. In essence, if the interrogator finds the right excuse for the right crime, at the right time, the subject might acknowledge his guilt. The real challenge, of course, is finding the right excuse.

If interrogators only interrogated people on things they themselves have done, they would know the right excuses since they too had used the same excuses to minimize their own feelings of guilt. This process of minimization and self-justification might also explain why few people have ever had the compulsion to self-report speeding offenses since "everybody does it" or "they didn't want to be late for work." However, it is beyond the pale for most interrogators to even imagine the right excuses for minimizing sex with children, let alone know from personal experience why some people would even find such activity desirable. While some academics conducting research using undergraduates complain that minimization is akin to making false promises of leniency, such assertions completely lack a basic understanding of why people minimize their wrongdoing. The same methods that Reid and Inbau used to discover the concept of themes (two-way mirrors and video recordings) have been used in court to demonstrate that minimizing is not the same as a promise of leniency. Often overlooked in laboratory research is the very human notion that themes are a profoundly compassionate way to provide people with an opportunity to tell the truth. Not all guilty people, however, choose to acknowledge their guilt. Some continue to lie, remain silent, evoke their rights against self-incrimination, or forever deny their involvement in the issue under investigation.

It is also important to note that some of the literature questioning certain interrogation practices, including procedures erroneously attributed to the Reid technique, actually describe practices that are not part of the Reid technique or used by interrogators properly employing the emotional approach (Reid & Associates, 2011). Interrogation techniques continue to evolve, which logically suggests that research should focus on those procedures currently used with a mind to the future. Just as more recent legal decisions often supersede prior decisions, current interrogation practices can be very different from those of the past. It is disingenuous for researchers to cite old text editions and outdated practices without acknowledging changes in current instruction and practice.

Situational factors

There are many situations besides the aforementioned lack of confidence in the subject's guilt that would make an interrogation ill-advised, starting with the subject's physical, emotional, and mental states at the time of interrogation. People who are experiencing significant pain, are in shock, haven't had sufficient sleep, exhibit signs of serious mental illness, don't understand plain, simple questions and statements (language, cognitive ability, etc.) or the consequences of the situation (youth, cultural differences, etc.) should not be interrogated until these conditions can be properly mitigated. Ironically, subjects who are under the influence of drugs (legal or otherwise) and alcohol sometimes forget about the negative consequences of telling the truth—the very reason why psychiatrists sometimes use sodium amytal ("truth serum") when conducting court-ordered psychiatric evaluations. There are, however, numerous problems with attempting to interrogate suspects in these states, starting with obtaining a full and informed waiver to Miranda or other required advisements of rights to remain silent, have counsel present, and so forth. When suspects are significantly under the

influence of drugs or alcohol, it should be assumed they are incapable of giving knowledgeable consent to any waiver of rights in custodial situations. In addition, some people in chemically altered states may be highly susceptible to suggestibility (false admissions) and, as is also the case with subjects under hypnosis, may still be capable of lying. While urgency and media pressure may tempt interrogators to interrogate subjects under these conditions, only the most extreme cases would allow even considering the attempt—for example, where the investigation clearly indicates the suspect knows where a kidnapped child is hidden and the child's life is in imminent danger. Even here, however, false admissions can be identified when the child's location (and other factual admissions) are found not to be as the suspect claimed. Again, admissions are not confessions.

Environmental issues

Most interrogations involve events or crimes with significant, negative legal consequences for guilty subjects. They also involve acts and topics that for most people are sensitive, embarrassing violations of personal ethics and not commonly discussed. For these and several additional reasons that will be addressed, it is strongly recommended that interrogations be conducted by a single interrogator in a private setting. While ganging up on the subject might make the interrogator feel more comfortable and emboldened, as numerous other professions have found, people are reluctant to even discuss, let alone confess to, something they themselves perceive as bad or wrong in front of a crowd. Forensic interviewers at Child Advocacy Centers, while late to the field of investigative interviewing, quickly discovered that having parents or even a second interviewer present in the room when interviewing children often resulted in children saying what they thought adults wanted to hear rather than the truth (Slowik, 2008). The priest and the penitent, the high school counselor, the doctor and patient, and victim's advocate have all concluded from real, field experience that privacy is not isolation and it is a preferred practice for seeking the truth.

Some interrogation research appears to equate the concept of privacy with isolation (Feld, 2014) and a primary cause of false admissions. Isolation, as described in accounts from the Korean War or chain gangs of the rural South, almost always include sensory, not just social, deprivation, denial of physical needs, and verbal abuse. These practices are essentially the antithesis of the emotional approach and it is unfortunate that some researchers have simply defined all solicited admissions to be the result of coercive techniques, implying they are illegal or unethical.

False admissions and false confessions

There are numerous reasons why people sometimes admit to crimes they did not commit including diminished mental capacity, age, language, desire to protect another, money, peer pressure, notoriety, revenge, need for attention, some forms of depression

(need for punishment), distortions of reality, and other forms of mental illness. Many of the laboratory interrogation studies attribute high rates of false admissions exclusively to interrogation and uniformly describe procedures neither taught nor recommended for field practice (Kassin & Kiechel, 1996). This may explain why high rates of false admissions and confessions are not found by the courts, in criminal justice statistics, or reported by the Defense Bar (Shealy, 2014). As mentioned previously, when using the Reid technique, after the interrogator directly and unequivocally states that the subject committed the act under investigation, there is a deliberately planned pause to observe the subject's reaction. The interrogator is specifically looking for the response of the correctly accused guilty or falsely accused innocent—an intentional check on investigation and interviewing accuracy. Further, in Steps 8 and 9 of the Reid technique, the interrogator spends a considerable amount of time trying to corroborate the initial acknowledgment of guilt obtained in Step 7. Finally, the process doesn't stop with the subject's recorded admission but is passed on to field investigators for verification.

While difficult due to privilege and other confidentiality requirements, researchers have begun to use actual, real case field data in studies of interviewing and interrogation (Jensen, Bessarabove, Adame, Burgoon, & Slowik, 2011). The collaboration between experienced practitioners and deception researchers is long overdue and should become the new standard for the future (Vrig & Granhag, 2012).

SEE ALSO: Communication and Counterfactual Thinking; Deception Detection Accuracy; Eye Behavior; Facial Expressions; Forensic Communication; Integrative Negotiation Strategies; Interpersonal Communication Skill/Competence; Interpersonal Deception Theory; Negotiation Sequences; Paralanguage; Physiological Measurement; Power and Dominance in Nonverbal Communication; Power and Negotiation; Proxemics; Self-Disclosure; Verbal Aggressiveness

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