

INTERVIEW AND INTERROGATION  
HOW GOOD *ARE* WE AT GETTING TO THE TRUTH?

by

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The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

California Commission on Peace Officer Standards and Training

## Interview and Interrogation

### How Good *Are* We at Getting to the Truth?

Law and Order, CSI, Cold Case, Criminal Minds.....the list goes on of television shows that depict law enforcement officers who are able to get to the truth, solve a crime, and see the criminal process through to a conviction within one hour. The fascination with this subject is evident through the number of television and movie productions with law enforcement themes, not to mention reality shows that continue to increase every year. But the true reality is that despite the strides made in law enforcement's ability to solve crimes through the use of DNA and other forms of technology, solving crimes still requires a lot of blood, sweat, and tears.

A crucial factor to solve crimes and identify a perpetrator is most often found in the interviews with victims and witnesses, and the successful interrogation of suspects. Without the requisite skill necessary to obtain a confession or elicit crucial information, the odds of solving crimes diminish markedly.

Interview and interrogation plays a major role in an investigation, particularly when there is little or no physical evidence. Yet the importance of this area of expertise seems to fall short of other areas of concern, such as community policing and homeland security. By the end of this article, though, you will see how interview and interrogation plays an integral role in both of those subjects. You will also see how technology can supplement the effectiveness of the interrogator's skills and how enhancing interview and interrogation skills and technology will help create a safer world. Finally, you will learn how specialized Interview and Interrogation Units may be the best way to achieve these goals.

## What is Interview and Interrogation?

Understanding interrogation can be problematic. The word conjures up negative connotations, and might evoke images of torture, psychological stress, and physical exhaustion. The word “interrogation” is derived from the Latin roots *inter* (in the presence of) and *rogre* (to ask) and simply means to question formally and systematically.<sup>1</sup> Although an interview is generally associated with interaction with victims and witnesses, interrogation could also be employed should a victim or witness be reluctant to be forthcoming. In criminal law, however, the term interrogation is defined as “a process of questions propounded by police to a person arrested or suspected to seek solution of crime. Such person is entitled to be informed of his rights, including the right to have counsel present, and the consequences of his answers. If the police fail or neglect to give these warnings, the questions and answers are not admissible in evidence at the trial or hearing of the arrested person.”<sup>2</sup>

So, from a legal perspective, interrogation is questioning likely to produce incriminating statements. Thus, it would be inappropriate, from a legal perspective, to interchange the words interview and interrogation when interacting with a suspect in a custodial environment. But in the practical world, many of the same methods used to interview are used in interrogation.

## The Need for Change

Why is it that law enforcement sees a need for specialized SWAT teams, robbery-homicide units, and gang units? The answer is simple. These units require a unique set of skills because they serve such vitally important roles. Then why not a specialized interview and

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<sup>1</sup> Boetig, Brian Parsi and Arnold R. Bellmer. “Understanding Interrogation.” FBI Law Enforcement Bulletin. October 2008

<sup>2</sup> Boetig, Brian Parsi and Arnold R. Bellmer. “Understanding Interrogation” , FBI Law Enforcement Bulletin October 2008

interrogation unit? Traditionally, interview and interrogation (I&I) has been viewed as just one of the many skills a law enforcement officer must possess. In reality, it is an art. An effective interrogator needs to be a good actor with an interest in human psychology. An interrogator needs to be prepared to act according to the suspect's level of intellect, be that a suspect with an extensive education, an unskilled laborer, an adult or a child.

Although some would argue that officers learn to become intuitive and able to read people more effectively than the average person, this is not always the case. While it has been shown that police officers have an uncanny ability to detect danger, they often can't articulate why.<sup>3</sup> The reality is their training and experience does enhance their ability to stay alive, and that this ability becomes second nature. This intuition, however, doesn't necessarily apply to interview and interrogation abilities.

Just because someone is a peace officer does not mean he or she is better than the average person at detecting deception or truthfulness.<sup>4</sup> This raises the question as to why we don't treat this skill as a specialty. Recruits in police academies receive very limited training in interview and interrogation. In fact, of the forty-two Learning Domains of the Regular Basic Course for California Peace Officers, not one is devoted to interview and interrogation.<sup>5</sup> Yet we expect them to go out into the streets to interview traumatized victims, interrogate hardened criminals, and get into the minds of sociopaths and psychopaths. That almost sounds like the job for a trained psychologist. Police officers are expected to be just that, but without the training. If we are going to treat interview and interrogation as a specialty and the vital tool in investigations that it

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<sup>3</sup> Pinizzota, Anthony J., Edward F. Davis, and Charles E. Miller, III. "Emotional/Rational Decision Making in Law Enforcement – Intuitive Policing," The FBI Law Enforcement Bulletin. February 2004.

<sup>4</sup> Grohol, John M., PhD., "Detecting Deception: A Quick Review of the Research." PsychCentral. February 1999, Reviewed: February 2004.

<sup>5</sup> California Commission on Peace Officer Standards and Training, Revised 7/22/2010.

is, law enforcement needs to start looking at non-traditional methods as well as improving the methods in place.

### Facial Expressions

One of the leading experts in the field of detecting deception, Dr. Paul Ekman, is considered a pioneer in the study of emotions and their relation to facial expressions. In fact, the popular television show called “Lie to Me,” is based on Dr. Ekman and his work. He has written several books on this subject, with an emphasis on detecting deception through facial expressions. He developed the Facial Action Coding System (FACS) to classify every conceivable human emotion.<sup>6</sup> His work in this subject led him to observe not only the face, but the entire body as it relates to deception.

Ekman produces training devices relating to emotional skills, and is initiating research relevant to national security and law enforcement. Interestingly, Ekman no longer publishes details of his work in peer-reviewed journals, claiming this is a strategy to avoid aiding scientists in countries the United States consider a threat. Although Ekman’s system is not currently being taught to law enforcement officers, it deserves consideration as another investigative tool as it pertains to interrogation.

### Interview & Interrogation and Mental Illness

There are other hurdles to overcome, such as interaction with those with mental illness. An estimated 5 million people living in California suffer from mental illness.<sup>7</sup> *The Innocence Project* uses DNA analysis from crime scenes to exonerate alleged innocent persons. The best-known Innocence Project, administered through the Benjamin N. Cardozo School of Law in New

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<sup>6</sup> Ekman, P. and W.V. Friesen. *Manual for the Facial Action Coding System*, Palo Alto: Consulting Psychologists Press. 1977

<sup>7</sup> Nauert, Rick, PhD. “Nearly Five Million Californians Need Mental Health Services.” PsychCentral. July 29, 2010

York, has helped to free 138 people who had been wrongfully incarcerated. A quote from their Web site notes, "Truly startling is the number of false confession cases involving the mentally impaired and the mentally ill. Police interrogation in the [false confession] cases reveals a lack of training and a disregard for mental disabilities."<sup>8</sup>

An article written by Alison D. Redlich, PhD., entitled, "Mental Illness, Police Interrogations, and the Potential for False Confessions," discusses false confessions elicited by police interrogators as a result of a lack of training and disregard for those with mental illness. According to Dr. Redlich, training on police interrogation techniques rarely, if ever, include how to recognize those with mental impairments. She cites that about twenty-five percent of the 138 cases from the Innocence Project involved false confessions arising from inappropriate police interrogations; and, that among these false confession cases, persons with mental impairment appear to be disproportionately represented.<sup>9</sup> This is just one more example to emphasize the need to enhance the I&I skills and techniques used by law enforcement.

#### Not as successful as we think

In *The Police Chief*, O'Connor, and Maher assert that about 80 percent of criminal cases are solved by less than a full confession.<sup>10</sup> Further, they state that a recent study on the success rate of current police interrogation techniques indicates "that police interrogations produce at least some incriminating information in between 45% and 64% of cases... in about a quarter of the cases, the suspect offers a full confession; however, we know very little about which tactics are likely to produce confessions.... It also appears that confessions have a moderate impact on

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<sup>8</sup> Redlich, Alison D., PhD. "Mental Illness, Police Interrogations, and the Potential for False Confessions," Psychiatric Services. January 2004

<sup>9</sup> Redlich, Alison D., PhD. "Mental Illness, Police Interrogations, and the Potential for False Confessions," Psychiatric Services. January 2004

<sup>10</sup> O'Connor, Thomas P. and Timothy M. Maher. "False Confessions." *The Police Chief*. October 2009

case processing. Specifically, those who give at least some incriminating information are more likely to be charged, convicted, and receive a longer sentence.”<sup>11</sup> This statement highlights the importance of eliciting as much incriminating evidence as possible. The difficulty lies in the fact that attempting to infiltrate a person’s mind to discover the truth about how and why something occurred is a complex issue. The idea that an interrogator can get inside a person’s head and figure out his or her truthfulness or deception can be an arduous task.

Over the years, interrogation methods have evolved from coercive methods to employing pseudo-psychological methods. Critics of these methods claim that although the methods used today are an improvement from those used in the past, these methods are psychologically manipulating, by employing a “preplanned sequence of tricks and inducements,” with the goal of breaking a suspect down.<sup>12</sup> Thus, the debates continue amongst supporters of law enforcement investigators who are simply employing the methods that are non-coercive and not physically harmful, and those who will continue to criticize any and all police interrogation methods.

A popular training program, the Reid technique, has been used to educate more than 500,000 law enforcement and security officers since 1974. The technique employs nine steps of interrogation that incorporate the identification of verbal and non-verbal characteristics to distinguish a truthful person from one who is lying or withholding the truth.<sup>13</sup> Although this technique has improved the skills of police interviewers and interrogators, there are still challenges that need to be addressed and room for an enhancement of these skills. In one of the many books written by Reid and Associates, titled “Criminal Interrogation and Confessions,” the

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<sup>11</sup> O’Connor, Thomas P. and Timothy M. Maher. “False Confessions.” *The Police Chief*. October 2009

<sup>12</sup> Lassiter, G. Daniel. *Interrogations, Confessions, and Entrapment*, Volume 20, Kluwer Academic/Plenum Publishers 2004.

<sup>13</sup> <http://www.reid.com/>

authors acknowledge that false confessions do occur, but believe that if interrogation techniques are used in accordance with their guidelines, the likeliness of an innocent person confessing is greatly reduced.<sup>14</sup> In addition to the Reid Technique and other efforts, there are also technologies (past and present) to assist in eliciting the truth.

### How Does Technology Play a Role?

Currently, the only type of technology being used by law enforcement to detect deception is the polygraph. However, any statements made or lies detected as the result of a polygraph are inadmissible in court because it has been deemed unreliable and the results are frequently difficult to interpret. The modern version of the polygraph was invented in 1921 by John Larson. Wait a minute! Did you say *1921*?? Yes, you read that right. It has been used in law enforcement since 1924. Can't we come up with something better than that?

Technology advances at such a rapid pace, a computer becomes obsolete after just one year. Currently, there is no technology for detecting deception that is readily used in law enforcement for criminal cases that is admissible in a court of law. Law enforcement should be looking at the myriad of technologies that have the potential for detecting deception; such as brain wave scanners, voice stress analysis, and cognitive biometrics.

One such technological tool that has the potential for assisting law enforcement in detecting deception is the Medical Resonance Imaging (MRI) scan. MRIs are used widely in brain research, but they have yet to be employed as a lie detection method in law enforcement. When employing the MRI, a mechanism that measures blood-oxygen levels in the brain, research has shown that when someone lies, the brain sends more blood to the ventrolateral area of the prefrontal cortex; and, that study subjects have been identified as lying from 76 to 90

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<sup>14</sup> Inbau, Fred E., John E. Reid, Joseph P. Buckley III, and Brian C. Jayne. "Distinguishing Between True and False Confessions." *Criminal Interrogation and Confessions*, 4<sup>th</sup> Edition. Jones and Bartlett Publishers. February 1, 2004

percent of the time.<sup>15</sup> In July 2010, a case was cited where a woman in India was convicted and sentenced to life in prison for murdering her former fiancé after eloping with another man. One year later she was released on bail because it was determined the evidence against her was not sufficient. However, the reversal did not mention that the brain scan had played a major role in her conviction. More recently, India's Supreme Court ruled it unconstitutional for brain scans to be used in court without the suspect's consent. However, in this case and others, the suspect's willingly subjected themselves to the scans to avoid harsh police interrogations.<sup>16</sup> But that's in India, what about in our own backyard?

In June 2010, a Tennessee man tried to use an MRI brain scan to defend his honesty in a Medicare and Medicaid fraud case being heard in federal court. The judge would not allow the evidence in because it did not meet the test of proven accuracy nor the general acceptance by scientists. But although the judge rejected it he wrote in his opinion:

*“In the future, should fMRI-based lie detection undergo further testing, development, and peer review, improve upon standards controlling the technique's operation, and gain acceptance by the scientific community for use in the real world, this methodology may be found to be admissible even if the error rate is not able to be quantified in a real world setting.”<sup>17</sup>*

Critics of employing MRIs as a lie detection tool will continue to claim this technique to be a violation of one's civil rights, but the real hurdle will be the expense. At about \$5,000 a pop, you won't see this being used on a petty thief.<sup>18</sup> Thus, it is necessary to look at other potentially valuable tools, at a fraction of the cost.

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<sup>15</sup> Madrigal, Alexis. Wired Science. *MRI Lie Detection to Get First Day in Court*. March 16, 2009.

<sup>16</sup> Robinson, Elizabeth. *“Brain Scan Lie Detection.”* Police Innovations. A Publication for the Carnegie Council. July 2010.

<sup>17</sup> Madrigal, Alexis. *“Brain Scan Lie Detection Deemed Far from Ready for Courtroom.”* Wired. June 1, 2010.

<sup>18</sup> Robinson, Elizabeth. *“Brain Scan Lie Detection.”* Police Innovations. A Publication for the Carnegie Council. July 2010.

Research headed by Gil Luria and Sara Rosenblum at the University of Haifa, Israel, is being conducted to detect deception through a person's handwriting.<sup>19</sup> With the use of a computerized tool, handwriting characteristics are analyzed to detect a person's personality traits; but more importantly to gauge a person's innocence or guilt in a criminal case. The researchers used a computerized tablet that measures the physical properties of the subject's handwriting, which are difficult to consciously control.

Examples of the metrics used are how long the pen is held to the paper versus in the air, the length, height, and width of each writing stroke, and the pressure of the pen on the writing surface. The results have shown that those three measurements were much higher when people wrote false statements. For instance, in regards to mean stroke length, it was 9.9mm when people were telling the truth, but 10.56mm when what they were writing was false. The research continues and has yet to be tested in a law enforcement arena, yet researchers believe this technique has the potential to combine other lie detection technology with handwriting analysis to achieve more accurate results.

#### How Does This Relate to Real-Life Police Work?

Okay, so maybe brain scans and handwriting analysis aren't generally admissible in court today, but there was a time when DNA evidence was also not admissible. The first state appellate court decision to admit DNA evidence was in 1988 (*Andrews v. Florida*, 533 So. 2d 841 [Fla. Dist. Ct. App.]). It wasn't until the mid-1990s that most states allowed DNA test results into evidence.<sup>20</sup> A combination of technology and investigators who specialize in interview and

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<sup>19</sup> Luria, Gil and Sara Rosenblum. "Handwriting-based Tool Offers Alternate Lie Detection Method." *Applied Cognitive Psychology*, Vol. 23, November 2009 Issue.

<sup>20</sup> [www.answers.com/topic/dna-evidence-1](http://www.answers.com/topic/dna-evidence-1)

interrogation will not only increase law enforcement's ability to get to the truth, but it will strengthen cases, leading to increased filings and convictions.

### Global Implications

Looking into history, one can think of The Spanish Inquisition, the Stalinist show trials of the 1930s, and the Third Reich to see that torture and coercion were common techniques used to elicit confessions to almost anything. The use of physical and psychological torture, such as sleep deprivation, prolonged periods of interrogation, and pain techniques have been staples in the history of "truth verification" and lie detection. Truth serums were used during the Cold War to elicit information from reluctant spies. Not only were these serums proven unreliable, but they were highly addictive.<sup>21</sup> As a result of the historical use of these techniques, legal issues have affected how current police interrogation is conducted.

Until the early 1900s in the United States, physical abuse was not only acceptable, but a legal method in eliciting a confession.<sup>22</sup> But physical torture was only one form of coercion. Other forms of coercion, such as holding a suspect for several days of prolonged questioning, were also employed.<sup>23</sup> A confession in *Ashcraft v. Tennessee* was held inadmissible as the result of a 36- hour period of continuous questioning under oppressive conditions.<sup>24</sup> *Miranda v. Arizona* was the basis for requiring law enforcement officers to advise a suspect of his/her 4<sup>th</sup> amendment rights as it pertains to self-incrimination.<sup>25</sup> Although it is necessary to have

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<sup>21</sup> McCoy, Dr. Dorothy. "Truth Detection: The holiest of human grails." PoliceOne.com, September 20, 2007

<sup>22</sup> Layton, Julia. "How Police Interrogation Works." [www.Howstuffworks.com](http://www.Howstuffworks.com).

<sup>23</sup> Layton, Julia. "How Police Interrogation Works." [www.Howstuffworks.com](http://www.Howstuffworks.com).

<sup>24</sup> FindLaw: U.S. Constitution: Fifth Amendment: "Confessions: Police Interrogation, Due Process, and Self-Incrimination

<sup>25</sup> FindLaw: U.S. Constitution: Fifth Amendment: "Confessions: Police Interrogation, Due Process, and Self-Incrimination

protections in place to ensure the fair treatment of suspects, these rules present challenges to law enforcement officers who are legitimately trying to get to the truth.

Currently, interrogation has been in the forefront of international news in light of the events of 9/11 and terrorism. If and when the U.S. experiences another attack, there will be a great deal of debate about questionable interrogation techniques and whether or not the U.S. would be justified in using them to thwart future terrorist attacks. Incidents such as the human rights abuses at Guantanamo, Afghanistan, and Iraq, most notably the Iraq prison abuse scandals, including torture and abuse at Abu Ghraib and Bagram, have garnered a great deal of media attention.<sup>26</sup> This has resulted in a widespread outcry by human rights activists that the techniques used by these agencies are questionable at best, if not barbaric. But others believe that these techniques were justified and necessary, resulting in the elicitation of information that saved American lives.<sup>27</sup>

Questions have been raised on interrogation techniques that have been used by the CIA and the military, the effectiveness of these methods, and the legal, ethical and moral issues. As a result, the Obama Administration is considering overhauling interrogation techniques used on terrorist suspects by creating a small team of professionals made up of spy services and law enforcement agencies.<sup>28</sup> Needless to say, the interrogation techniques of police officers and investigators may be impacted as well.

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<sup>26</sup> McCormack, Megan, Scott Whitlock, and Rich Noyes. "The Iraq War on Cable TV." The Media Research Center. December 19, 2006.

<sup>27</sup> Taylor, Humphrey. "Divided Attitudes on Interrogation Techniques Used at Guantanamo." The Harris Poll #56. June 2, 2009

<sup>28</sup> Kornblut, Anne E. "New Unit to Question Key Terror Suspects." The Washington Post. August 24, 2009.

## Conclusion

Although psychologists and scientists have made some strides in the art of detecting deception, the techniques and technology employed by law enforcement haven't changed significantly over the years. It is difficult to determine why that is, other than the mere fact that law enforcement has traditionally been slow in transitioning into unforeseen territory, choosing to do things the way they have always been done. The exciting news is that there is new territory to be explored in the field of interview and interrogation. Technology is progressing rapidly and younger law enforcement officers are more eager and adept at employing new technology. Law enforcement also needs to consider selecting those individual police officers who have a passion for interview and interrogation and either creating a specialized unit or ensuring investigators are trained beyond the basic interview and interrogation class.

Furthermore, law enforcement agencies need to learn from the mistakes that have been made on a more global level; that is, how interrogation has been employed on terrorist suspects. There is much debate as to what level of coercion might be considered morally inhumane and what effect on the human mind of coercive interrogation stops short of physical torture. This is where technology comes in; and where using technology that can scan a suspect's brain to assess truthfulness, but stops short of inflicting any harm, may play an important role. Although it may be viewed as invasive and a violation of a subject's rights, it cannot be deemed as physical torture if it does not inflict pain.

So, why is it so important to enhance the skill level of police investigators, and even create specialized interview and interrogation units, if police interrogations are already producing at

least some incriminating information in between 45% and 64% of cases?<sup>29</sup> Why the enhanced technology? Because it all comes down to why police work is so important. although the debate about human rights and morality will continue, the ultimate question remains: Whose rights are more important, the suspects' or the victims'? With the employment of non-harmful technology and an enhancement in interview and interrogation techniques employed by specially trained officers, the answer may be that everyone's rights will be taken into consideration. Suspects will be held accountable for their crimes as a result of thorough investigations and effective interviews and interrogations along with corroborating evidence, which will ultimately lead to successful prosecutions.

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<sup>29</sup> O'Connor, Thomas P. and Timothy M. Maher. "False Confessions." The Police Chief. October 2009