

MODULE 2 – WHO ARE THE DETECTIVES AND WHAT DO THEY DO?

LECTURE 3 – WHAT DO THEY DO (CONT'D)

INTERROGATION ^{33, 34}

Generally, if you interview someone who you suspect committed a crime, you will at some point be legally bound to advise them of their **Miranda Rights** (essentially, the right to remain silent, anything you say may be used against you, right to a lawyer, etc.). If the interviewee exercises his/her rights, that will typically end the interrogation and you will lose access to the interviewee. Defense lawyers are not usually inclined to allow their clients to undergo police interrogations, unless it is really in their client's best interest to do so.

Studies regarding the detection of deception have indicated that there are **no unique behaviors** always associated with truth or deception. While some behaviors may be common during I/I (some self-descriptive behaviors such as the Nervous Nelly, Frigid Fred, Lazy Lester, etc.), determinations regarding truth are usually more complex.

Various **principles of behavior** include the following:

- Verbal – this includes word choice, arrangement of words, sending a message.
- Paralinguistic – these are speech characteristics (response time, length, pitch, tone, continuity, etc.).
- And Nonverbal things such as posture, movements, eyes, facial expressions.

Trained and experienced interviewers have been shown to be able to detect truth/deception about **80%** of the time in **structured interviews**. So training, motivation and structure can make a difference.

Polygraph examiners, whose primary job it is to conduct I/Is and test truth/deception, are generally the most proficient investigators in detecting deception during interviews. They get lots of practice, I guess~~

Psychological tactics, trickery and deception are generally legal and can be used effectively in interrogations. Or maybe not.

Sometimes they can create **problem-o's** with the public and during subsequent legal proceedings.

Even though they may be legal, their use can be **criticized** as unethical and beneath accepted professional or social standards. **Whatever~~**

So even after a suspect waives their Miranda rights and continues to talk, detectives can still face **daunting legal challenges** regarding their interrogation techniques.

While interrogation is often considered an art, a **well-planned, organized and structured interrogation** technique executed by an experienced interrogator can be effective. So how effective is that? See below.

Successful interrogations? Anecdotal evidence suggests that **less than 1/3** of interrogations are successful, whatever successful means. So imagine – solving your case and seeing justice served often depends on your interrogation skills, and you, like most detectives, have absolutely **no training** in interrogation.

So at least 2/3 of the time your **interrogation will fail**. Well, you sure **blew that one**, didn't you? How did it feel? Your big chance - and **YOU SCREWED IT UP!!! Didn't I say don't do that?** Now go tell the victim.

Ah, well – **join the crowd**. Been there, done that. Got the frigging' T-shirt. Bleep. Hard to forget. Bleep, bleep, bleep, etc. So live with it. See, now if you had practiced this stuff while you were in school rather than on the job~~ Well, there's supposed to be a lesson in every mistake, so learn what you can from the experience - please, and move on - please. The fight against evil must continue. And **you** are the fighter. **You** must remain undaunted. **You** speak for the VICTIM. **You** are responsible for SOLVING **your** case. And **you** need to do BETTER next time. When **you** screw up, it's not somebody else's fault. And even if you think it is, it is still **your** problem, because **you** screwed up.

Remember, your job is **“To strive, to seek, to find, and not to yield.”**⁵⁷ Or, as a colleague of mine once put it a bit more succinctly, **“Illegitimi non-carborundum.”** That means **“Don't let the bast-, er, bad guys, wear you down.”**

You would think that such a critical technique as interrogation would be thoroughly **researched**, documented and **taught in depth** with regard to what works and doesn't work. Sadly, this is not the case. There is surprisingly little hard research available in the public domain in this area, as the “successful Interrogations” statistic suggests.

Geez, the **big thing that detectives do** is talk to people; they mostly have to learn that by trial and error; only a small portion of interrogations are successful; and we really don't know why. What's going on here, I wonder? Another "arggh!" Is this a real **butt-kicker**, or what???. Maybe when we get to looking at the models of investigators we will come to understand this a little better. But maybe not. And I am in the latter camp. This would seem to be an **excellent area for in-depth and continuous research**, because it affects so much of what we do in the criminal justice system. But it isn't. Apparently, we have other, more important priorities. Like what, for instance, I wonder?

Then there are the "**wizards**" among us. A study showed that about one in 400 people (that's 0.2%) can usually tell if someone is lying. And they do this without any training or structured interviews.³⁵ I have repeatedly learned the hard way over the years that I am definitely not one of these.

Wizards are reportedly divided roughly **equally** among men and women, most are **middle-aged**, most are motivated to do this, and they practice at it on their own. They may have nothing to do with the CJ system. But none of them are 100% accurate, as far as we know.

They focus on **two categories** of clues:

- **The first is Emotional** clues. It is hard to conceal or lie about emotions. Micro-expressions, speech slips, lack of detail, etc., they're all indicators. But indicators are just that – they not proof. For example, although anxiety may be a reliable indicator of anxiety, it is not a reliable indicator of lying.

- **The second category is thinking** clues. Inconsistencies are important (shrugs, posture, hands, eye movements, etc.).

Some **interesting research** has been done in the area of observing non-verbal communications by **Paul Ekman**, last name spelled E-K-M-A-N.⁴⁸ His work formed the storyline for the TV show "Lie to Me," which played during 2009 – 2011. For those of you who are interested, episodes of the show were still available for viewing on YouTube the last time I checked. The show exaggerates Ekman's work, as Ekman himself clearly points out, but it does call attention to the potential for observing non-verbal communications.

As a matter of interest here, humans have over **40 muscles** in their facial area, more than any other mammal. Many of these are used to make facial expressions that communicate emotions. **So emotions rule!** But you apparently need a well-practiced eye to recognize them in a face and interpret them, sometimes.

Some of the **legal issues** involved in I/I are listed here.^{33, 34}

- The interviewer must have the **legal authority** to conduct I/I (that includes legal jurisdiction, citizen vs. non-citizen, overseas areas, etc.), or any information obtained will likely not be admissible in an official legal proceeding. This can be a particularly contentious issue in terrorism investigations, both overseas and in the US.

- As mentioned earlier, at some point, the interviewer may be obligated by law to **advise** the interviewee of his/her legal rights.

- Free will, coercion, trickery, etc., (really anything the interviewer does or doesn't do) are all subject to legal challenge.

- **Physical and mental issues** (being under the influence of medications/drugs, juveniles, incompetent, etc.) can affect the outcome, and therefore the legality, of the I/I.

As always, confessions should be properly documented, witnessed and CORROBORATED, if at all possible.

False confessions are rare, but they do occur. They are usually associated with the I/I of minors, people suffering from mental problems, and coercion.

Some **scientific aids** for I/I include the following:

- Video/audio – good evidence, but subject to documentation, tampering and chain of custody issues.³⁶

- Polygraph – reported to be accurate 70 – 90% of the time, and obtains information that can't be gotten otherwise. But there are legal issues and, although polygraph tests may be used to assist an investigation, they may not be admissible in court.^{38, 39, 133}

- Voice stress analysis – mainly detects stress, but not deception.³⁷

- Profilers – can be helpful in partnership with investigators, but no panacea.⁴⁰

- Hypnosis – again, can be helpful in victim/witness recall of details, but no panacea.⁴¹

- Drugs (truth serums, etc.) – unreliable, legal problem-o's, little research data re: effectiveness.⁴²

- Psychics – unreliable, little research data available re: effectiveness.⁴³

Here are some more **videos on YouTube** that can provide insights into the techniques we've been discussing.

- the first one is "**Interview and Interrogation Skills**"

That's an 8-minute video providing some perspectives on this critical subject.

- **the next one is "Search and Seizure and the Fourth Amendment"**

This is a legalistic 13-minute brief on the exclusionary rule and that old bugaboo - "fruit of the poisonous tree." **Grrr.**

- **the third one is "City Spotlight: Behind the Scenes of the CPD - Arrest and Booking"**

This is an informative 22-minute video with lots of good questions and answers regarding the police arrest process

CORROBORATION

Corroboration – this is a **really big thing**. As you may be aware, there are few things in this world that are perfect. In fact, I'm at a loss as to name one perfect thing. So when it comes down to determining the guilt or innocence of a person, the more evidence you have to corroborate that guilt or innocence, the better. Sometimes even the best evidence – DNA, fingerprints, forensics, eyewitnesses, confessions, you name it – they can all be misleading or misinterpreted. And they can lead to erroneous conclusions that protect neither individuals nor society. Even Locard recognized the problem of the fallacy of humans in correctly understanding physical evidence, as mentioned in an earlier lecture, **REMEMBER?** So it behooves the astute investigator to not only develop evidence, but to attempt to corroborate it to the extent possible with other facts and evidence. Sending an innocent PERSON to prison at the expense of allowing the real criminal to remain free can be a heavy burden to bear for all involved.

SUMMARY

So there you have it – if you've **gotten this far** in good faith, PERSISTENT TRAVELER, you have a better-than-average understanding of the police criminal investigation process for Visible Index crimes in local agencies. And you actually know what those words mean!

You just went through **two full modules worth** of crimes and agencies, theory (what little there is), the process of CUIISC and CUIPDSC, investigative effectiveness (including CC vs. DP), and who investigators are and what they do. And you're still with us? Good work, I'd say, and a **bargain for the price!**

But remember, that this was just the **warm-up**. It gave you a pretty decent map of the police investigation process, and now you may even be able to talk about it intelligently with your peers (who undoubtedly will be **majorly impressed** if they didn't also take this course).

But even better – you're now in a position to intelligently ask, **how the heck did we get here**, because you have a better understanding about just where "here" is exactly. Just who was it that decided all this CC vs. DP stuff, and just who exactly said the police can't do this or that? And why are we so blasé about the costs of crime and so many offenders going unpunished? How did all this come about? Did somebody just have a **brain fart** or a **bad hair day** when they decided the rules? And just who was that somebody anyway, exactly? Maybe they need a little **dose of their own medicine** – yeah, **that's the ticket! Exactly!**

What gives them **the right** to tell me, as a VICTIM, that they can't identify or prosecute the person who murdered, raped, or burgled me or someone in my family because of a "**poisonous fruit?**" Just exactly what's that all about? Or because the Supreme Court decided that a killer's rights may have been violated because of some **piss-ant technicality** that nobody ever heard of before? What kind of absolute nonsense is that? What about the VICTIMS – weren't their rights violated? What's the matter with these people? Where's the justice?

AND **WHAT ABOUT ME???** What about my rights as an innocent VICTIM– didn't they get violated, and don't they count? I'm the good guy, remember? This is the United States of America – how did we ever get to this mess? I'm really **ticked** about this!!! As the Brits are wont to say, **BLOODY HELL!** Or is it "Bob's your uncle?" I never can get them straight.

Come on, let's go to the **Module 3** and see if we can figure out some of this **nonsense** – right after a little quiz, that is.