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Leading Interview and Interrogation Techniques. Focus on Cognitive Interview*

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Abstract

Criminal investigation in Mexico is performed by the investigation triad, which is made up of police and experts in different areas such as medicine and prosecutors. They all use interview and interrogation techniques to do their work. Unfortunately, in Mexico, there is no culture of training in governmental institutions responsible for investigating crimes, and results in ignorance of techniques for obtaining objective and reliable information that guarantees the protection of fundamental rights. This chapter illustrates the scope and limits of interview and interrogation techniques and their objectives, with emphasis on the cognitive interview (CI). The CI, which has been validated scientifically, is one of the best tools to obtain useful information, that is, results of a CI that have been conducted in the field can be used in a court of law. This technique can be used with victims, witnesses, or suspects. The current chapter also describes the most utilized techniques, cognitive interview, mnemonic techniques, Strategic Use of Evidence, and Verifiability Approach.

Key words: Cognitive interview, Investigative interviewing, Interviewing techniques

Background

It is impossible to talk about criminal investigation without understanding its objective and the tools used to explain criminal behavior. To do this, it is necessary to know the investigation techniques that exist, such as interviewing and interrogation, physical and electronic vigilance, forensic science, undercover operations, audits, and other techniques (Knoke & De Lise, 2010). Interviewing and interrogation techniques stand out because they are accessible, economic, simple, and effective tools in obtaining information from witnesses, suspects, or victims, all of whom can be cooperative or hostile. Even though they are technically distinct processes, interview and interrogation share the objective of obtaining information. The acquisition of information can be done by persuasive or inquiring approaches. Therefore, we can apply two fundamental strategies: persuasion and coercion, which utilize means of legal, physical, cognitive, or social tactics (Goodman-Delahunty, Martschuk & Dhimi, 2014). Although other investigation techniques exist, none of them are as enriching as an interview, where live conversation allows the investigator to observe, analyze, and define the objectivity and precision of the information. This utility is due to the fact that all human beings develop communicative instincts and abilities early on in life. Unfortunately, they can be contaminated with bias, prejudice, or inferences. However, there are ways of verifying the obtained information with other techniques to determine its reliability and precision. Additionally, in the process, interview and interrogation techniques give the

investigator the chance to assess the credibility of the testimony using a variety of practices, some identifying signs of stress through nonverbal language, others analyzing the verbal content of speech looking for contradictions or the amount of verifiability details.

Throughout history, different kinds of interview and interrogation protocols have been developed with varying objectives. We highlight police related interviews and interrogations in this chapter. This includes, but is not limited to, work with victims or witnesses as part of a first responder protocol. They are known as police interview techniques. Interview and interrogation used by detectives are known as criminal interview and interrogation techniques and they mainly look for suspects' confessions. Investigative interviews are conducted to elicit information from persons during a process of an investigation (information gathering approach). Those conducted by police can vary in purpose, scope and content, and therefore are useful to interview witnesses, victims, or suspects, in all cases, their characteristics are that the approach does not presume guilt, does establish rapport, and uses some principles such as allowing the suspect to freely offer his or her account, and presenting evidence in a strategic manner (Meissner, Redlich, Michael, Evans, Camilletti, Bhatt & Brandon, 2014). Technically, an investigative interview is a non-accusatory, fact-gathering conversation to determine facts, sequences of events, alibis, or to confirm information with a specific interviewee following an interview strategy, known as PEACE Model (Clarke & Milne, 2001).

As it has been observed, there are different meanings for the processes that seeks to obtain information from human sources, that is, through interviews and interrogations. These differences emerge from at least two variables, the first is the interview or interrogation characteristics, for example, fact gathering interviews approach look for establish rapport and employ open-ended questioning. The primary goal is elicitation and focuses on cognitive cues of deception. On the other hand, the accusatorial method tries to establish control, uses psychological persuasion, the primary goal is confession, and it focuses on anxiety cues of deception (Meissner, Redlich, Bhatt & Brandon, 2012). The second variable is the legal framework that allows its use. For example, in America, there are police interview and interrogation techniques that seeks to get a confession because the value of this kind of evidence is taken into account in a court of law. The problem with these techniques is the possibility of getting a false confession and wrongful convictions. In United Kingdom, in order to avoid erroneous sentences secondary to false confessions, the act of Police and Criminal Evidence act was promulgated (PACE, 1984), that which prohibited

judges from admitting confession if it was obtained through coercive interviewing or interrogation techniques, and based on that resolution, all police interviews and interrogations in England and Wales would have to be videotaped since that year. As a result, in 1992, the PEACE Model was applied as part of a standardized strategy to apply investigative interviews focusing on the development of rapport, explaining the accusation and its nature and seriousness, emphasizing the importance of honesty and acquisition of truth, resulting in ethical interviewing based on information gathering approaches.

Some of the techniques that contemplate interrogation have been criticized for producing false confessions (Starr, 2019). In 2014, Goodman-Delahunty, Martschuk & Dhimi proposed that all interview and interrogation procedures can be used with different strategies, some coercive and others not. We think that interrogation is a more dedicated process because its objective is to get a confession, and not using the best practices, application, and guidelines can result in false confessions and wrongful convictions, for example the New York Central Park Jogger rape case, where five black adolescents were questioned by the police, and four of the boys admitted a crime they didn't commit. Fortunately, the boys gave conflicting accounts of the crime and none of the DNA evidence matched any of them.

As shown in Table 1, some techniques use psychological pressure to obtain information, known as admittance or confession (Sigurdsson & Gudjonsson, 2001), which can provoke false confessions or obtain dubious, questionable information. The current chapter shows the need to change current Mexican interview and interrogation procedures to obtain truthful information, since the vast majority of police departments currently use illegal "third degree" interview and interrogation techniques, a concept related to emotional, physical, or cognitive pressure. On the other hand, Information gathering interview techniques as the CI, respect rights, prevent torture, and contain the following factors to prevent false confessions: the utilization of rapport, assertive and effective communication skills, and be based on behavioral (Abbe & Brandon, 2013) and cognitive memory neuroscience (O'Mara, 2015).

Cognitive Interview

Cognitive Interview (CI) was developed in 1984 (Geiselman, Fisher, Firstenberg, Hutton, Sullivan, Avetissian & Prosk, 1984). It was initially designed for only interviewing witnesses (Memon, Meissner & Fraser, 2010). It involves four elements:

report everything, mental reinstatement of context, change order, and change perspective (MacPherson & Della Sala, 2019). The CI was updated to include “social dynamics between the interviewer and witness, witness and interviewer memory and other cognitive processes, and an effective communication between witness and interviewer” (Fisher & Geiselman, 1992), (Fisher & Geiselman, 2019).

The main objective of the CI is to recover trustworthy information from memory, to do so, the CI based his theory on the way memory works, that is to say, taking into account the act of acquiring information from an event through the senses, that is knowing as encoding; also storage or the way memory can be stored in short or long term, which allows the retrieval of information in several different ways from witnesses and victims, and was recently adapted for use in criminal investigation scenarios (Satin & Fisher, 2019).

In countries with regular interview and interrogation principles, standards, policies, and guidelines, the CI is a questioning technique generally used by the police to improve the quantity and quality of information recovered from the memory of witnesses and victims directly or indirectly involved in a crime. However, recent research has shown that the CI can be useful for questioning pilots or astronauts about detailed information from memory about their missions, athletes after a competition, surgeons and medical staff after surgical interventions, and other circumstances (Fisher & Geiselman, 2019).

Originally, the application of the CI technique should follow or apply some strategies that facilitate memory established in the core elements of the CI which are based on four fundamental psychological processes: social dynamics, memory, communication and cognition (Fisher & Geiselman, 2019), (Ibid., p. 3).

- Social dynamics includes rapport, active respondent participation, no interruptions, and the use of open-ended questions.
- Memory can be retrieved in different ways, that is encouraging respondents to search through memory in different ways, for example recovery through sensations such as aroma or weather, change perspective and reporting everything.
- Communication instructs the individual to provide a detailed account and not edit information allowing the respondent to output their knowledge in the same form as it is stored (often nonverbal).
- Cognition is related to instructing the respondent not to guess and to close their eyes.

Structurally, the CI involves the following steps:

1. Social dynamics

The main purpose of interviewing someone is to obtain a complete, truthful, and accurate account of what happened in a specific event, for that to happen, good communication must be established. Rapport is one element, understanding the meaning that “the establishment of all the elements that favor a good communication”. To date, there are many known strategies, to establish rapport, like the use of the “Devil’s advocate” (Pérez-Campos Mayoral & Langer, 2019), using attentive behavior, imitative behavior, courteous behavior, common grounding behavior (Gremler & Gwinner, 2008), that is, the behavior that results from individual interactions such as treating the interviewee with respect, giving them information and explaining entire procedures, using open ended questions promoting full narrative without interruptions, and allowing them to perceive themselves to be the experts also favor the establishment of rapport (Fisher, 2010). As a result of a good communication process will Reduce the authoritarian component of a police interview, transferring the information flow control from the interviewer towards the interviewee (Griffiths, Milne, & Cherryman, 2011), encouraging dynamic participation using active listening strategies through the intonation of voice, the positioning of the body, and facial expressions.

2. Explain a detailed description of the event

The interviewer should initiate an uninterrupted free report from the interviewee through the use of an open-ended question like: “Tell me everything you remember, even the little things you think are not important, remember I was not at the crime scene so just tell me everything in your own time and words”. To facilitate this phase, the interviewer can help the interviewee with general and specific mnemonic techniques.

2.1. General enhance mnemonic techniques

2.1.1. Detailed testimony request

The interviewee is requested to report every detail, even if they think it is trivial. In this way, seemingly unimportant details can act as a trigger for key information about the event. It is essential not to interrupt the interviewee during their narration or to ask specific questions. Active listening strategies like summarizing can be helpful at this moment (Moulton, 2017).

2.1.2. Mental reestablishment of context

The interviewer tries to mentally restore the environmental and personal context of the crime by asking the interviewee about their activities and general feelings the day of the event. This can be achieved by displaying images, sounds, feelings and emotions, emulating the weather or the place where it happened, etc. Witnesses are generally asked to use their five senses to remember the event, which can help recreate the circumstances in the mind and thus trigger context-dependent memory recovery.

2.1.3. Using focused concentration

Implies asking the interviewee to understand that searching through memory requires hard concentration and is not easy. Must let the interviewee know that he or she has all the information in memory, so he/she must do most of the work at this phase of the interview. The interviewers must be patient to not disturb or distract the interviewee with nervous habits like tapping fingers or clicking pen. Also asking to make eye contact and asking many closed questions will generate interruptions and disrupt concentration at this phase of the interview (Fisher & Geiselman, 1992), (Ibid., p. 103).

2.1.4. Encouraging multiple retrieval attempts

The principle behind this technique is that memory retrieval is a search process, and like all processes, more searching leads to more findings (Fisher & Geiselman, 1992), (Ibid., p. 107). Interviewees must be encouraged through open ended questioning to explore new areas looking for additional information. Additionally, silence after open ended questions induces more elaborated responses. Interviewers must avoid looking unmotivated or that they don't care about what the interviewee answers, this often results in a premature reduction of interest for searching information in memory.

2.2. Specific mnemonic techniques (Varied retrieval)

2.2.1. Event report from different perspectives

Interviewees are asked to report the incident from a different perspective. Care must be used because the interviewee can misinterpret the instructions encouraging them to guess or fabricate an account. To decrease the probability of error, the interviewer must ask the interviewee only to report events that he or she actually experienced followed by the instruction of no to guess.

2.2.2. Event description of differing order

Request to report the incident in a different narrative order is a good way to recover peripheral details (irrelevant information) of the history, but this information can detonate memory recall. Although the “natural” way to remember an event is in chronological order, if people are asked to think about the event in a different order (e.g., backward), new information should become available.

3. Questioning

This phase looks for detailed information about the free narrative phase, but before asking the interviewee any questions, it may be helpful to outline what is to be expected, thus, it is helpful to inform the interviewee that it is time to ask some questions based on what he or she has already told in order to expand and clarify what they have said. It is suggested to use open ended questions about the event, actions, time, circumstances or people, and to later ask closed questions to clarify details.

4. Drawing

Asking the interviewee to draw a sketch of the history will help to reinstate the context so new information would be acquired, and also will help the interviewee and interviewer to orientate themselves (relations between people and objects in the event scene), allowing them to remember more details of the narrative (Milne, 2004). The request for an illustration should be presented to the subject as a means to clarify the narrative for greater understanding by the interviewer as well as to give the subject another opportunity to recall additional information (Geiselman & Fisher, 2014).

5. Identification of important items

After the drawing phase, it is possible that new information will develop. In this case, it is necessary to ask clarifying questions, or to expand this new information with open ended questioning and then closed questions looking for details or to corroborate information. Some authors use this phase to assess credibility using the Strategic Use of Evidence (SUE) to gently challenge the previous narrative, increasing the cognitive load or using the Verifiability Approach (VA).

6. Reviewing the interview

The interviewer summarizes the interviewee account, repeating all the relevant information, allowing the interviewee to check the accuracy of the provided infor-

mation and also serve as an additional retrieval phase allowing the addition of new uncover information.

7. Closing the interview

Closure needs to be friendly and methodical conducted. Allows to provide the interviewees with the appropriate information about the next stages of the process, for example tell a witness where or not they should expect to attend court, this approach facilitates a second interview in case necessary. Fisher & Geiselman (1992) suggest three specific goals for the end of the interview, the first is to collect background information at this phase because it is impersonal information and does not help to develop rapport, the second is extend the functional life of the interview asking the interviewee to keep trying to remember information even the interview as finished, and the last one is to create a positive last impression expressing thanks for the participation and concern about the interviewee.

The following section is oriented to help the reader to understand the techniques that could be used with the implementation of the CI in order to assess the credibility of the information acquired with this approach.

Forensic credibility assessment

Cognitive lie detection approach

There are various theoretical approaches in deception detection research. The “leakage hypothesis” is one of them. It assumes that attempts at deception result in the ‘leakage’ of the deception into physiological changes or behaviors. This hypothesis underlies most non-verbal assessments of deception. In this section we analyze the use of cognitive lie detection techniques that evaluate verbal cues of deceit, often more diagnostic than nonverbal cues of deceit. The cognitive lie detection approach theory states that lying is more cognitively demanding than telling the truth and that increasing the cognitive load for interviewees should increase the number of deception cues (Ibid.) (Vrij, Fisher, Mann & Leal, 2006).

The reason cognitive lie detection approach works is because this technique magnifies the difference between liars and truth tellers, that which leads to greater discrimination between the two (Vrij, Fisher & Blank, 2017) because:

- Fabricating lies is cognitively demanding.

- Liars are less likely to take their credibility for granted and they usually monitor and control their own behavior to appear honest.
- Lying requires justification.
- Liars need to suppress the truth while they are lying.
- Lying is intentional and deliberate, which is cognitively demanding.

Increasing cognitive load

An investigator must have a “tool box” to use during an investigation. Among these tools, interview and interrogation techniques are the most frequently used to obtain information. As we indicated in this chapter, some of the tools are gathering interview techniques and can be used with witnesses and victims, whereas others are specific for suspects. Although all interview and interrogation techniques have different objectives, they also share a few of them. One objective is to assess whether the information obtained is true or false. The “interview methods” that use detection deception techniques are commonly called “cognition based” rather than “arousal based” to distinguish them from techniques like the polygraph test (Ibid.) (Nortje & Tredoux, 2019). CI technique is not intended to assess credibility etiologically speaking, however, the reverse order part of the CI is used by some authors to assess the credibility of the testimony what is the purpose of this parenthetical comment (“tools”). All of these techniques are “tools” being somewhat exhausted by the cognitively demanding task of lying (Vrij, Leal, Mann & Fisher, 2012). Imposing cognitive load refers to interviewer interventions aimed at making the interview setting mentally difficult. Liars who require more cognitive resources than truth tellers will have fewer cognitive resources left over. If cognitive demand is further raised, which could be achieved by making additional requests (tools), liars may be less able than truth tellers to cope with these additional requests (Vrij, Fisher, Mann & Leal, 2006).

Lying is more cognitively complex because fabricating details is more difficult than telling the truth. It takes more time to prepare deceptive statements. (DePaulo, Finkelstein, Rosenthal & Eisenstat, 1980), (Zuckerman, DePaulo & Rosenthal, 1981).

The following are techniques of how to increase cognitive load in an interview setting:

- The reverse order instruction.
- Introducing a secondary task during the interview like maintaining eye contact with the interviewer (Beattie, 1981) (Vrij, Mann, Leal & Fisher, 2010).
- Collective interviewing. Another way of imposing cognitive load is through a procedure called ‘forced turn-taking,’ which can be employed when two or more interviewees are interviewed together at the same time (Vrij, Jundi, Hope, Hillman, Gahr, Leal, Warmelink, Mann, Vernham & Granhag, 2012).

Verifiability Approach

The Verifiability Approach (VA) is a strategy-based approach that operates under the dilemma faced by liars in providing false statements (Nahari, Vrij & Fisher, 2014). While liars may be aware of how to provide statements rich in details to generate a more honest impression, this same interview strategy could be risky for liars, because the simple fact that providing greater information suggests that the interviewer will have more opportunities to check the interviewees story.

In addition, the job of an interviewer is to verify details that have been provided by the interviewee and therefore liars usually avoid providing verifiable information. Liars commonly provide unverifiable details that appear to be truthful statements, which could be difficult to verify. Liars also, avoid self-incriminating statements by providing the least details possible, which may be indicative of deception.

Providing non-verifiable details, suspects avoids incriminating evidence. When using the VA, the interviewer is focused on evidence, therefore, it is no longer significant, if the verbal and nonverbal responses are detailed. Quoting Vrij and Nahari in 2019, “Also the interviewer does not actually have to check the truthfulness of the evidence mentioned by the interviewee to form a credibility assessment but only to count the number of checkable details reported”.

Asking unexpected questions

Another technique used to increase the differences between truth tellers and liars is to ask unexpected questions. If liars suspect that they are going to be questioned about a particular event, they will prepare for the interview by developing answers to questions that they assume they will be asked. Some of the most

revealing questions, however, are those that are unexpected. Asking unexpected questions helps to provoke and enhance verbal differences between truth tellers and liars and facilitates lie detection (Vrij, Leal, Granhag, Mann, Fisher, Hillman & Sperry, 2009).

Strategic Use of Evidence

The Strategic Use of Evidence (SUE) technique consists of two levels, one strategic and one tactical (Hartwig, Granhag & Luke, 2014). The first consists of general application principles of the technique and is, in a sense, abstract. At the tactical level it is more concrete since there are specific application tactics in the process of any information gathering interview. These tactics are divided into three categories: background assessment of the case before the interview, the planning of questions, and the revelation of evidence. This approach invites the interviewer to plan the best time to show physical evidence for the purpose of identifying lack of veracity and forcing the interviewee to change their response to then continue questioning them, until there are unable to give a logical answer to their acts. In appearance, it is a very simple technique because it seeks to compromise the interviewee with a version of the facts, and then demonstrate by disclosure of evidence that they are in error, thus forcing them to change their version of the testimony and encouraging the disclosure of more information.

Closing comment

In Mexico, police departments need to adopt new interview and interrogation procedures and other science-based technologies that seem to be more appropriate to obtain information and assess credibility in legal and forensic environments. This work aims to enlighten the reader of the need to change paradigms and evolve as modern societies. Currently, the CI technique used with the PEACE Model is recommended by the United Nations for being effective and respectful of fundamental rights, which allows the evaluation of the veracity of a testimony and the systematic acquisition of detailed information useful in diverse contexts, like police officers acting like first responders or in the legal use with victims, witnesses, and lastly, suspects.

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Table 1. Characteristics of information-gathering and accusatorial interrogation techniques

Techniques	First responder police related	Criminal detective	Forensic science expert	Aims	Strategy (Goodman-Delahunty et. al, 2014)	Interview, interrogation (accusatory model) (Jayne & Buckley, 1999) or investigative interview (Information gathering interview) (Milne, Shaw & Bull, 2007)	The information acquired is admitted in court according with the federal rule of evidence or Dauber criteria (Green, Nesson & Murray, 1999)	Credibility assessment camp (emotion vs cognitive) (Driskell T. & Driskell J.E., 2019)
Cognitive Interview (CI)	Yes	Yes	Yes	Obtain information from witnesses, victims and suspects	Non-coercive practice	Interview or investigative interview (PEACE Model)	Yes	Cognitive, evaluate conduct through verbal behavior
Wicklander-Zulawski Criminal Non-Confrontational Interview & Interrogation (NCII)	Yes	Yes	No	Obtain admission or confession from suspects	Non-coercive practice	Interview & interrogation	Obtained information admitted in a court of law. <i>Dassey v. Dittmann</i> , 877 F.3d 297 (7 th Cir. 2017)	Emotional, evaluate conduct through Nonverbal behavior
Conversation management (CM)	No	Yes	Yes	Obtain information from suspects or reluctant witnessed	Non-coercive practice	Interview or investigative interview (PEACE Model)	Yes	Cognitive, evaluate conduct through verbal behavior
Self-Administered Interview (SAI) adopting CI	Yes	No	Yes	Obtain information from witnesses and victims	Non-coercive practice	Interview	Yes	Does not apply
Forensic Experiential Trauma Interview (FETI)	No	No	Yes	Obtain robust and reliable information from victims	Non-coercive practice	Interview	There are no empirical analyses of the efficacy of this technique (Ray, 2015)	Does not apply
The REID technique of interview & interrogation	Yes	Yes	No	Obtain admission or confession from suspects	Non-coercive practice if correct applied.	Interview & interrogation.	Obtained information admitted in a court of law. <i>US v. Jacques</i> (March 2014)	Emotional, evaluate conduct through Nonverbal behavior

SCHARF	Yes	No	No	Obtain intelligence from human sources	Coercive & Non-coercive practices. (depends on the interviewer)	Interview	Does not apply	Does not apply
Achieving best evidence (ABE)	No	Yes	Yes	Obtain robust and reliable information from child, adolescent, or vulnerable victims or witnesses	Non-coercive practice	Interview	Yes	Cognitive, evaluate conduct through verbal behavior (McCarroll, Ridgway & Williams, 2004)
National Children's Advocacy Center (NCAC) protocol of forensic interview	No	No	Yes	Obtain robust and reliable information from children who may have experienced abuse or who have witnessed a crime or other violent act	Non-coercive practice	Interview	Yes	Does not apply
serve, Target, Engage, Respond (OTER- interview based on behavior analysis in airports)	No	Yes	No	Obtain information, admission or confession from suspects travelers	Coercive & Non-coercive practices. (depends on the interviewer)	Interview	Does not apply	Emotional, evaluate conduct through Nonverbal behavior
General Interview Strategy of Dutch Police (GIS)	No	Yes	No	Obtain information from suspects	Non-coercive practice	Investigative interview	Yes	Cognitive, evaluate conduct through verbal behavior (Hoekendijk & Van Beek, 2015) (Vrij, Granhag, Mann & Leal, 2011)