

Common Mistakes Made During Investigative Interviews and Interrogations

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The **interview** is defined as a non-accusatory dialogue between the investigator and the suspect during which a structured set of questions is asked to the suspect, some of which are for the purpose of eliciting verbal and nonverbal behavior symptoms indicative of truth or deception. Common mistakes during an interview include the following.

1. Not asking the three primary interview questions – (a.) “Known truth questions” non-threatening questions designed to establish the suspect’s normal truthful behavior (b.) “Investigative questions” to obtain who, what, where, when and why, and (c.) “Behavior provoking questions” intended to assist in determining truthful or deceptive behavior
2. Interviewing across a desk – The barrier makes the deceptive more comfortable making it easier to conceal their deception
3. Not taking notes – Consistently taking notes makes the suspect realize a permanent record is being made resulting in more reliable behavior. Additionally, the investigator becomes acutely more aware of the suspect’s behavior by recording it in the notes.
4. Taking selective notes – Tips the suspect to become guarded because something he/she said was important and is more likely to be guarded in subsequent questions
5. Accusing the suspect – Truthful subjects could lose confidence in the investigator if falsely accused, resulting in loss of rapport and distorted behavior responses
6. Distractions (phone calls, interruptions, windows in suspect’s line of sight, smoking, etc.) – The subject’s behavior becomes less reliable
7. Not watching the suspect during his/her answers – Be sure to carefully observe the behavioral reaction stimulated by the questions
8. Not asking the suspect whether or not he/she committed the crime – Some investigators mistakenly or intentionally fail to ask the suspect if he/she committed the crime
9. Pacing during the interview – Distracts the suspect and makes the innocent feel threatened
10. More than one interviewer asking questions – It becomes more difficult to develop rapport

It is suggested that the investigator step out of the interview room for a short period of time (about 5 minutes) following the interview and before an interrogation. This serves to further differentiate the two sessions as well as causing the suspect to consider that additional incriminating information may have been obtained by the investigator.

An **interrogation** is an accusatory monologue presented by the interrogator during which the interrogator presents “themes” to the suspect, i.e., face saving arguments that will serve to psychologically (not legally)

justify, or minimize the moral seriousness of the suspect's criminal behavior. Sound reasoning and logic are presented to suspect with the ultimate goal of obtaining the truth. Mistakes commonly made during interrogations include the following.

1. Not conducting an interview prior to the interrogation – An accusatory interrogation is not the appropriate venue to achieve the objectives of a non-accusatory interview, including establishing rapport, developing the facts and determining the suspect's possible motives for committing the crime
2. Not treating the suspect with decency and respect – No matter how reprehensible the crime, never display personal feelings (disgust, repulsion, disbelief, etc.) to the subject
3. Taking notes – Encourages the suspect to stop talking or that something was said that was incriminating or crucial
4. Glancing at watch – Signals to the suspect that you are working within a limited time frame and that he/she simply has to wait you out
5. More than one interrogator talking to the suspect – It is easier for the suspect to confess to one person than to two or three people
6. The suspect's supportive environment – It is counterproductive to be at the suspect's home or workplace where he/she feels more comfortable and realize what he/she stands to lose by confessing
7. The desk as a barrier – Allows the deceptive suspect to feel more comfortable, possibly resulting in a longer or an unproductive interrogation
8. Engaging in a dialogue – The interrogation should be a monologue wherein the interrogator controls the pace as well as the subject matter of the interrogation. Also, allowing the suspect to talk too much prevents the subject from hearing the interrogator's themes and encourages the suspect to interject denials.
9. Reminding the suspect of the consequences of the crime – Reinforces the suspect's will of not confessing
10. Using legal terminology – Using the word 'murder' is likely to remind the subject of the crime, the heinous behavior and the associated punishment – rather use the phrase, 'caused the death of ...' which semantically minimizes the suspect's behavior
11. Using vulgar language – May be offensive to some suspects and generally has negative effects in rapport building – There may be an exception to rapport building with certain suspects by using their vernacular, however be aware that if the suspect views this as "phony" it can backfire and make the suspect more suspicious of the investigator's motives
12. Showing the suspect photos of the crime/victim – Reinforces the heinous behavior and the associated punishment
13. Making promises of leniency or threats – Will nullify a confession
14. Telling the suspect to look at you – Results in a defiant stare
15. Challenging the suspect with false evidence – "We have an eyewitness that saw you steal the money." The risk is that the subject may demand to see he/she accuser which is impossible during an interrogation

16. Responding to the challenge, "Are you calling me a liar?" – The mistake is to say 'yes' which will result in an argument as no one wants to be called a liar. The proper response to this challenge is, "I am saying you haven't told the truth, that you did do this," and immediately return to themes

17. Responding weakly to a suspect's challenge, "Are you saying I did this?" – Do not hesitate stating with confidence, "Absolutely, there is no doubt that you did this!" Displaying high confidence during the interrogation is crucial.

18. Asking the suspect, "Tell me why you did this?" – Makes it too difficult for the subject to spontaneously tell you why he/she committed the crime. Instead, the interrogator should proactively develop a theme based upon the suspect's motive, culminating in an "alternative question". (Under the Reid Nine Steps of Criminal Interrogation, the alternative question is one that presents to the suspect a choice between two explanations for possible commission of a crime, one of which is the face saving argument described within the interrogator's theme.)

19. Failure to ask the "alternative question" – Themes can be masterfully developed. But unless an alternative question is asked of the suspect, an interrogation may never reach successful conclusion even if the suspect is ready to confess. The alternative offers the untruthful suspect an opportunity to start telling the truth by making a single admission. Example: "Is this the first time you did something like this or have you done this many times?"

20. Failure to corroborate admissions – After a suspect's initial admission, use "open ended questions" (rather than "leading questions" which suggest one's own answer) to accurately develop the suspect's knowledge of the details of the crime. Use of leading questions at this stage risks obtaining false information or having a confession deemed unreliable. Examples of "open ended questions" are: "Then what did you do?," "What happened next?," "What did you do with the stolen money?," or "What did you do with the gun?"

There is a very distinct difference between an interview and an interrogation. Unfortunately some investigators combine the two or fail to distinguish the difference. The primary distinction is that the interview is non-accusatory whereas the interrogation is accusatory. Recognizing the difference and avoiding the common mistakes during interviews and interrogations will greatly increase the success of the investigator in identifying the truthful and increasing the confession rate of the deceptive.

Louis C. Senese is vice president of John E. Reid and Associates and has authored the book, *Anatomy of Interrogation Themes* as well as having published several articles on this topic. He has conducted in excess of 8,000 interviews and interrogations, has trained thousands of local, state and federal investigators as well as corporate security personnel in interviewing and interrogation. He is a member of the American Polygraph Association and past president of the Illinois Polygraph Society. For further information regarding interviewing and interrogation, as well as Mr. Senese's book, visit www.reid.com.

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