



The Focused Interviewing System

FORWARD

Nothing involved with law enforcement is more crucial than the ability to effectively communicate with those whom we "police", yet interviewing receives very little attention at most law enforcement training academies in the United States.

Many law enforcement professionals desire additional instruction in this area, but are prohibited from receiving the training due to the costs involved. This is unacceptable; it's too important.

I started formulating this system of interviewing in 1990. Almost 15 years later, after teaching this subject to thousands of law enforcement officers throughout the United States and Canada, I decided to make the following changes:

- I have re-edited the material and compiled it in an [Adobe Acrobat](#) format as a PDF file.
- I am publishing a [Focused Interviewing](#) newsletter, completely free to opt-in subscribers only. Anyone subscribing to the newsletter may unsubscribe at any time, for any reason.
- I will solicit interviewing questions from my subscribers and will publish those questions (and my responses) in the newsletter, so we can all continue to learn together.
- I have decided to quit selling the [Focused Interviewing](#) manual and I will instead offer it completely free to my newsletter subscribers.

My sincere hope is that every single law enforcement professional that wants to increase his/her knowledge of interviewing techniques will join the [Focused Interviewing](#) community by subscribing to the newsletter.

Together, there is nothing we cannot accomplish!

Chip Morgan

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INTRODUCTION

At no time in our modern history have more demands been placed upon the law enforcement officer.

Communities are extremely concerned about crime and they are demanding that law enforcement agencies "do something about it."

It seems that every day, violent crime and drugs occupy the front page of every newspaper in America.

Politicians at the local, state and national level like to give the impression of being "tough on crime" and espouse philosophies which, at least outwardly, seem to support that toughness.

At the same time, the public (via the media) is scrutinizing the actions of the law enforcement community more closely than ever before.

The public wants results and, more importantly, to feel safe. Yet, that same public will not tolerate any perceived abuses of suspects' rights in the process.

Primarily due to the increased cost of incarceration, a concerted push is being made to release prisoners from jails and prisons, with the ensuing increase in probationers and parolees.

Probation/Parole Officers have increased caseloads with no end in sight.

Juvenile crime is sky-rocketing.

Younger, more fearless criminals are becoming the norm, with the media bringing sad tale after tale into our homes on a nightly basis.

When I speak to new recruits, I tell them that what the public wants in a police officer is simple: we want applicants that are warm, caring individuals who are capable of speaking to public groups; conducting demonstrations at schools; counseling troubled youth; rendering first aid; interacting with and assessing problems from a community perspective.

In addition to all of those admirable qualities, we want much more.

If a bad guy is trying to get into our home, we want an absolutely fearless gladiator who will willingly risk his/her very life to apprehend the suspect (without injury to the burglar, of course) and protect our property.

We want, expect and demand all of this for a salary that is far less than society pays a plumber!

Whether a person is a Probation/Parole Officer supervising 100 felons, a Police Officer in a patrol car, a Fish and Wildlife Officer working all alone 50 miles from any back-up, a military law enforcement officer or a Federal Agent working in a structured environment, being a law enforcement officer is an extraordinarily

tough and complex job which demands that we apply all of our skills and training.

How has the law enforcement community dealt with the ever-increasingly need for interview training?

Poorly, I'm afraid. Here's how it works...

In virtually every modern law enforcement agency, much care and consideration is given to the allocation of training, especially that training which requires both expenditures of time and money.

Traditionally, different segments of the agency (patrol, detectives, administration, etc.) have had to compete in a sense for their share of the almighty training dollar budget.

As a result, it is incumbent upon agency administrators to prioritize the available training money.

Training in most modern law enforcement agencies has taken on the semblance of a triage system at an emergency room.

Administrators want to send everyone to training, so they end up throwing some money at those who are "bleeding" the most.

Due to civil liability concerns, patrol officers mainly receive training emphasizing the motor skills areas (firearms, arrest techniques, emergency driving tactics, handgun retention skills, etc.), said areas presenting the most opportunity for mis-application and a resultant lawsuit.

Investigators receive training geared toward their primary areas of emphasis (interview & interrogation, crime scene investigation, investigative specialties, etc.).

Ironically, an objective analysis of the component parts of the job of patrol officer reveals interviewing skills are utilized far more often than any other skill.

Think about it, what skill is used more often than the ability to talk with people and elicit information?

Conversely, what will get an officer in trouble with the public faster than an inability to communicate?

How many times in any officer's life will he or she use deadly force?

How many times in any given month will he or she get into a vehicular pursuit?

How many instances of dealing with hazardous materials will crop up in an average month?

Contrast the frequency of these incidents against the absolute certainty that we will have to interact with people during each and every shift.

We routinely qualify in shooting, attend yearly hazardous materials safety courses, attend Emergency Vehicle Operations courses and the like, yet most patrol officers never attend formal interview and interrogation instruction after an initial exposure to it in the basic training academy.

Consider the following sober statistics:

Police Training academies in the United States offer, on average, only 4 hours of training on interviewing techniques during Basic Training.

60% of law enforcement training academies in the U.S. don't offer any interview training at all during Basic Training.

Less than 20% of all law enforcement officers have received in-service training in interviewing techniques.

Unfortunately, in most law enforcement agencies, the investigators are repeatedly sent to interview and interrogation training, while the patrol officers who apply to attend are routinely turned down.

In the bureaucratic effort to make training dollars stretch a long way, administrators often prioritize training requests, sometimes based upon outdated or inaccurate information.

I have personally taught classes year after year where the same people (investigators) are in attendance taking the same training!

The reason? Someone in authority determined that investigators are the only ones that need the training, so they send them to the same thing year after year.

It is largely for this reason that I developed the Focused Interviewing system in written format, to allow the inexpensive, easy methods contained herein to benefit police officers without regard to job assignment, all in an affordable manner.

Compounding the training problem is the current countrywide push toward "Community Policing" and all of the responsibilities inherent with that system.

Simply put, Community Policing can be best described as a philosophy of *empowerment* that allows the beat officer to solve problems.

By a collaborative effort with others in the community, police officers are responsible for actually resolving the community concerns, rather than just taking enforcement action.

While the philosophy sounds good, the average law enforcement patrol officer has not been given the tools with which to conduct investigations, interview people, make public presentations and achieve this collaboration to solve problems.

Federal grant money has been spread across the country in an effort to promote Community Policing.

Officers have been hired, equipment has been purchased and public relations efforts have been extensive in this area.

Unfortunately, officers that do not have the foundation of investigative training may find themselves in an uncomfortable position.

One Community Policing officer recently told me "*If I had wanted to interview neighbors, show photo lineups, speak to public groups and work extensively with other public agencies, I would have been a detective. What happened to good, old-fashioned police work?*"

One of the primary components of Community Policing is the ability to interact with people in a non-threatening manner which elicits maximum information.

Tools such as the Focused Interviewing system will be invaluable in this effort.

The Focused Interviewing system is easy to learn, easy to use and is easy to teach to new recruits and veterans alike.

It is an exceptionally good technique for a Field Training Officer to share with a trainee and lends itself well to an academy setting.

Most basic training academies teach a block of instruction on "Interviewing and Interrogation."

However, these traditional systems stress the structured interview approach to interviewing.

The new trainee soon realizes that he or she will conduct hundreds or thousands of street interviews while on patrol and will perform relatively few formal, structured interviews in an interrogation room setting.

The beauty of the **Focused Interviewing** system is its simplicity. There is no memorization of steps, rules, mandatory order of progression or confusing concepts.

Instead, I will present a system where you decide how to approach the myriad of situations facing police officers in everyday life, using concepts which are based upon common sense.

There are some very fine formal "Interview and Interrogation" type training classes for law enforcement officers out there (being a polygraph examiner, I have attended quite a few of them), but they tend to emphasize the structured interrogation aspect of the situation and are geared more toward an investigator than a patrol officer.

The **Focused Interviewing** system does not deal with just the structured interview/interrogation type setting.

Again, an analysis of a patrol officer's daily job reveals that the vast majority of contacts that he or she experiences are not in a structured setting conducive to a formalized method of interview and interrogation.

In developing the **Focused Interviewing** system of street interviewing, great attention was paid to the typical encounters the law enforcement officer will experience daily, instead of trying to make real life fit into a structured format.

The **Focused Interviewing** system is not one based totally on theory, but rather upon practical application.

These techniques are being successfully used daily, are very easy to learn and do not require reference texts to be carried in the field.

In this system, we will look at what is wrong (or at least ineffective) with typical street interview techniques, what led us to use techniques that don't work, what does work and how to develop techniques that will dramatically increase our "confession" or "incriminating statement" rates in dealing with offenders and will be of great value in clarifying statements obtained from victims and witnesses.

Yes, there will be some psychology and physiology presented, as both lay a foundation for the working mechanisms of this system.

Although (I can hear your groans already) some basic psychological and physiological concepts are included so that you know why these concepts work, they are not necessary to learn to effectively use the procedures described herein.

Quite simply, the principles are included because some people like to know why something works, some people like to be shown how it works and some people won't be convinced until they use the system personally.

There will be a few exercises presented at the conclusion of some of the chapters in this text.

I encourage each reader to perform the exercises, to demonstrate an understanding of

how to employ the principles described in each of the preceding sections.

"In it's simplest form, the interview consists of a straightforward description of events and involves a description of events, behavior, feelings, thoughts and intentions."

Gudjonsson 1992

The Investigative Interview

For practical purposes, it is useful to define the terms we will be using in the Focused Interviewing system.

These are certainly not the only definitions of the following terms, but will suffice for our purposes.

DEFINITIONS

TERM	DEFINITION
"GROUND TRUTH"	A polygraph term utilized to mean the "real" truth of a situation, as opposed to the "perceived" truth.
"LIE"	An intentional misstatement that the person knows is not the truth.
"PERCEPTION"	That which a person genuinely believes to be true, i.e., "Perception is Reality."

"FIELD INTERVIEW"	An attempt to elicit information in a field setting which is non-confrontational in nature.
"FIELD INTERROGATION"	An attempt to elicit information in a field setting which is confrontational in nature.
"GENERAL INTERVIEW"	An unfocused set of questions with no defined goal, such as with a witness or a victim.
"FOCUSED INTERVIEW"	A focused set of questioning with a clearly defined goal, such as fulfilling the elements of a crime.
"STRUCTURED INTERVIEW/INTERROGATION"	Formal questioning in a controlled setting of a non-confrontational or confrontational nature.
"PSYCHOLOGICAL SET"	A process of selective attention where the person's fears, anxieties and apprehensions are channeled toward the thing which presents the greatest immediate threat to his/her self preservation or general well-being.

CHARACTERISTICS OF A GOOD INTERVIEWER

Interviewing is hard work, certainly harder than not making the effort.

I have observed a multitude of good (and some great) interviewers and they share some common characteristics, as follows:

- **INQUISITIVE** - Simply put, most good interviewers want to know what's going on, have their suspicions raised easily and are nosy.
- **OBSERVANT** - Successful interviewing means thinking on your feet, while observing your surroundings and constantly observing the subject being interviewed. Not a job for those people who go through life half-awake.
- **ENERGETIC** - No one makes interviewers put forth the effort to get that confession, it's something that comes from within. You either have the desire or you don't.
- **ABILITY** - Good interviewers can talk with people and put them at ease, while eliciting useful information. There's a fine line here between being an officious "John (or Jane) Wayne" and a complete B.S. artist.

- **PROBLEM SOLVER** - Interviewers must look at the big picture to succeed in obtaining incriminating admissions from a suspect. I once saw an investigator lose a rape confession because he wanted the suspect to first admit stealing the car that he used to commit the rape! The suspect was willing to admit doing the rape, but didn't want to admit stealing the car, because the car belonged to a family member. Rather than just skip over the car (and possibly coming back to it later after dealing with the rape allegation), the investigator doggedly continued questioning the suspect about the car until the interview ended with no admissions at all. When I was asked to help with the interview, I just skipped the whole car issue and secured the rape confession.
- **PATIENT** - Police often damage the memory retrieval process by hurrying witnesses, interrupting, using inappropriate sequencing of questions and stopping the statement process too soon.

The most common question I'm asked by students is this: "Can anyone learn to be an effective interviewer or is it an in-born skill?"

Here's an analogy which may help explain the answer. Think of interviewing like playing the piano.

Some children are born with a gift for playing the piano. With diligent practice, they become master concert pianists.

Others have very little natural ability, but are also diligent in their training. After years of practice they

become adept at playing and become "practitioners" at playing the piano.

The common denominator for both the naturally gifted and the not-so-gifted is: PRACTICE. Without diligent practice, no one will ever play the piano.

Interviewing is like playing the piano in that there are some people who are gifted natural communicators and some who are not so blessed. However, if each person practices, both types of people will become effective interviewers.

Some of you will be "natural" interviewers, able to elicit confession after confession with little or no formal training, while the vast majority of you will be able to take some formal training, apply lots of practice and eventually become very good interviewers.

A good interviewer should be intelligent, should understand basic human nature, should be friendly (sociable), should be patient and persistent.

Good officers do not necessarily make good interviewers.

HOW MOST LAW ENFORCEMENT OFFICERS INTERVIEW PEOPLE

Most Law Enforcement Officers rely on confrontational, accusatory methods of interviewing, coupled with an assessment of non-verbal behavior (body language) to elicit admissions and confessions.

Yet, these methods are not successful in a large percentage of cases.

Consider the following:

- At least 50% of interview methods currently being taught to law enforcement officers are non-productive (Fisher, Geiselman and Raymond).**
- Law Enforcement Officers score no better than chance (50/50) when asked to evaluate body language for truthfulness or deception (Ekman & O'Sullivan).**
- Law Enforcement Officers put blind faith in the principles that advocate judging deception by evaluating body language (Gudjonsson).**
- The published success rates of officers getting admissions or confessions, using a confrontational approach, averages less than 40% (Gudjonsson, Baldwin, Leo).**

So why do we continue to use methods and principles that are not very productive (at best) or counter-productive (at worst)?

Primarily because that's what we've been taught in Law Enforcement over time.

The Law Enforcement community has been likened to a great train.

It takes enormous time and energy to start the train moving and, once moving, it doesn't want to stop.

Moreover, the train always wants to stay on the same track because switching to another track is a laborious, time-consuming process.

We know from scientific studies conducted by behavioral scientists, coupled with the untold work experience of polygraph examiners and law enforcement officials, that there are essentially two primary types of interviews used in law enforcement: the **accusatory** (confrontational) approach and the **narrative** (non-confrontational) approach.

We know from those same studies that the following is true:

- The most predominate interview method employed in law enforcement today is the accusatory, (confrontational) method, even though it is the least productive.
- The most productive interview method studied is the narrative, subject-driven (non-confrontational) approach.

The **Focused Interviewing System** deals with a narrative, non-confrontational approach to interviewing which has proven to be very easy to use and extremely productive.

It has the added bonus of being "politically correct" when viewed by members of the media and public.

FACTORS INHIBITING CONFESSIONS

- **Fears concerning legal sanctions and the fear of "getting a criminal record" for 1st time offenders.**
- **Concern about one's reputation or standing in the community (may be especially important in publicized or sensitive cases such as Child Abuse, Rape, Embezzlement), or when someone may lose professional licenses or privileges as a result of confessing (Doctor, Lawyer, Teacher, Nurse, etc).**
- **Not wanting to admit to oneself what they have done - known as self-denial.**
- **Embarrassment in front of friends and family.**
- **Fear of rejection and not wanting to hurt loved ones.**
- **Fear of retaliation - especially prevalent in drug cases and gang-related cases, where fear is actual, not theoretical.**

WHEN DOES THE INTERVIEW START?

The interview starts at the point of first contact with the subject to be interviewed.

This may be conducted by telephone, where the person hasn't even seen the interviewer.

In such a case, the first word starts the interview.

Many studies have shown that a person's initial impression of you is made within the first 20 seconds of contact.

Think about it, don't you yourself instantly categorize a person whom you meet for the first time?

Most often, before a person has ever spoken, we "peg" that person mentally, right?

The unfortunate part of this situation is that first impressions are very hard to overcome.

Once a negative first impression is made, the interviewer will have to work hard to turn the contact into a positive one.

The way around this, obviously, is to act and look professional in dress, language and by the respect you show to those being interviewed.

This is not a subject to be taken lightly.

One of the biggest reasons that investigators have much more success when interviewing than uniform officers is due to the fact that the investigator has not had to exercise "command presence" or authority at the scene of an incident.

It's hard to sternly order someone to do something, then come across as empathetic in an interview process.

The person's initial impression has already been formed and won't be easily changed.

How then is the on-scene law enforcement officer supposed to act toward people if he/she wants to subsequently interview them?

I believe that there are two kinds of officers, those who employ the official approach and those who are humanistic.

The **official approach is as follows:**

- **"Nothing but the facts, Ma'am."**
- **"Press hard, there are five copies."**
- **"If you don't like it, call your councilman."**

While the **humanistic approach is as follows:**

- **Empathetic**
- **Approachable**
- **Recognize that rules are hard to follow**
- **Recognize that we all chafe at having to follow orders.**

This is easy to recognize and hard to explain in written form.

We all have seen people who relate to suspects and people who don't.

Maybe the following example will suffice:

I love watching shows like NYPD Blue and other "cop shows" on T.V.

The main reason I like watching them is that they bear absolutely no resemblance to modern police work.

Think about it, how many times during an average episode of NYPD Blue does a detective smack a suspect around, threaten someone or throw them out a window?

Now think about this, how long would you last doing the same thing?

I know in my jurisdiction, I'd last for about one "episode", then I'd be fired, vilified in the media, sued civilly, indicted in state court and the subject of a FBI civil rights investigation!

Here's the bottom line: people don't admit things to people they hate.

Looks good on T.V., but doesn't work in real life.

We can be empathetic to people and their plight in the criminal justice system, while still accomplishing our goal of professionally investigating crime.

Axiom:

You only get one chance to make a first impression!

EYEWITNESS FACTORS

Eyewitness accounts of a crime may be very accurate, or they may be the worst form of evidence.

As study after study has shown, eyewitness testimony is one of the most unreliable types of all evidence.

The following factors all influence eyewitness accounts of a crime:

- **Weapon Focus** - there is a strong tendency to focus on that which presents the greatest immediate threat to the body (Psychological Set). This manifests itself in witnesses focusing on a weapon, to the exclusion of everything else.
- **Cross-Racial Identification & Ethnic Biases** - people's biases play a part in their identification of individuals. Ever heard the statement, "They're all the same" and wondered how it affects you?
- **Pressure to Choose** - witnesses may feel pressured to make an identification by the police or by other witnesses. As a consequence, they may rush to make an identification or may exaggerate their own part in witnessing a crime.
- **Post Event Influences** - as a crime scene unfolds, events which transpired after the actual crime (like someone pointing to a running suspect and saying "There he is") may influence their actual memories of the incident. This is very prevalent at accident scenes or public disasters of great magnitude.

What Attorneys do (to Cops) in Court

Why are we trying to learn to get admissions and/or confessions from suspects, anyway?

We desire such evidence to present at trial, or to build such an overwhelming case that the case doesn't even go to trial in the first place.

If that is indeed the goal, let's take a quick look at what we may encounter in a typical criminal trial.

In my years as a law enforcement officer, I've had the occasion to watch many attorneys conduct themselves in civil and criminal courts.

In fact, the average police officer spends much more time in front of a judge and/or jury than most attorneys.

Many attorneys have told me that trials represent a failure on their part to successfully plea-bargain a case, so they don't actually get to trial often.

In my conversations with many top-notch criminal defense attorneys, certain things are always emphasized in the representation of any criminal client.

In the pre-trial "game plan", the attorneys sketch out a plan of attack, basically as follows:

- **Attack the reason for the contact** - if attorneys can establish that there were no grounds or authority for the initial contact, this will result in the exclusion of evidence. How do they commonly establish the lack of grounds or authority? One way is to dispute the officer's testimony concerning his/her initial observations which led to the contact, usually by implying that the officer is lying or embellishing. An absolute counter to this is to obtain an admission from the suspect of the observed behavior which prompted the contact.
- **Attack the officer's conduct** - coercion, force, fear, intimidation (either actual or implied) will always be ready avenues for defense exploration. It's important to note that criminal defense attorneys may attack not only the officer's conduct during a particular contact, but may use the officer's past history in an attempt to establish a pattern of past misconduct. We have to think back no further than the well-publicized O.J. Simpson trial in which Mr. Simpson's attorneys discredited a police investigator by bringing up racially disparaging comments made by the investigator years prior to the Simpson prosecution.

- **Attack the decision to initiate action** - if not successful in attacking the officer's reasons for the initial contact or the officer's conduct, most defense attorneys will move to attack the officer's decision to take action against the defendant. Lack of reasonable suspicion and/or probable cause will be bandied about at this stage of the defense.
- **Evidence issues** - if unsuccessful in the above arenas, most attorneys will move to the evidence itself and the chain-of-custody issues surrounding that evidence. If the evidence gets excluded, most trials cannot be prosecuted.
- If all else fails, now's the time for the classic S.O.D.D.I. defense:

"Some other dude did it."

MAKING AIRTIGHT CASES

Fortunately, we have the ability to vastly improve the quality of cases we present to a judge or jury.

Simple things we can do at the scene make vast differences to the prosecutor, judge and jury in any criminal case.

Let's look at some simple things we can do to improve our cases.

Technology, Admissions and Professionalism - most officers begrudgingly use technology to their advantage.

We have audio and video recorders which many of us are "forced" to use.

It's easy to understand why officers resent those intrusions on our life.

Recorders are, in a sense, a slap-in-the-face to our credibility.

As a consequence, many officers have such a dislike for tape recorders that they just turn the recorder on and proceed to make a citizen contact as if the recorder wasn't even present.

Officers also have a bad habit of not seeking admissions/confessions when we see the crime ourselves.

We rationalize it by saying we don't need a confession, because after all, we say the crime being committed.

What we don't realize is that jurors always prefer to hear that a suspect confessed to a crime.

It's human nature to want to hear someone admit their wrongdoing before finding them guilty.

We also have a bad habit of uttering less than complimentary terms to crooks once we've placed them under arrest.

Let's look at two hypothetical (although typical) scenarios using an audio tape recorder and let's further make believe that we are jurors reviewing the tapes at trial.

- **Officer Grizzly** is a 25 year veteran who deeply resents having to use a tape recorder. He fondly recalls when his word was taken at face value in court over that of a suspect. Counting the days toward retirement, he feels that the department's mandatory taping policy is further evidence that the country is going to hell, so he obeys department policy and uses his tape recorder, but doesn't like it.
- As **Officer Grizzly** stops a violator for speeding, he turns his recorder on and makes his approach (we jurors can hear his footsteps on the tape). When he walks up to the vehicle, he observes that the driver appears very nervous, dropping his wallet out of the window of the vehicle, where it falls to the ground.
- Silently, **Officer Grizzly** picks up the wallet and hands it back to the violator, asking for his license, registration and proof of insurance (we hear only this). As Officer Grizzly looks in the interior of the vehicle, he sees what he believes is the corner of a kilo of cocaine peeking out from under the front seat (we don't hear

anything about this silent observation). **Officer Grizzly** orders the suspect out of the vehicle and arrests him.

- **Officer Grizzly** doesn't talk to the suspect about the speeding violation, because he saw the offense occur. He doesn't talk to the suspect about the drug violation, because he saw the drugs himself in plain view and doesn't need to get a confession.
- **Officer Grizzly** calls the suspect a "*no-good, drug dealing scumbag*" at some point during the arrest process (it is an unwritten rule that even if everything else is garbled, we will hear this comment clearly on tape).
- At trial, the defense attorney moves for the exclusion of the drugs, stating that **Officer Grizzly** stopped a violator who acted normally, then ordered him out of the vehicle and placed him under arrest. The defense attorney alleges that the officer searched the vehicle illegally after the arrest and once he found drugs, charged his client. Further, the attorney alleges that the officer was prejudiced against his client, as evidenced by his derogatory comments during the arrest process.
- The tape recording doesn't help to clarify the situation because **Officer Grizzly** didn't verbalize what he was seeing.

- **Officer Newby** is a rookie officer. He never worked in law enforcement without a tape recorder, so he accepts this as a useful tool and doesn't resent it the way **Officer Grizzly** does. **Officer Newby** has taken the time to learn to use the technology effectively.
- As **Officer Newby** stops the violator for speeding, he activates his tape recorder before he actually exits his vehicle. On the tape, **Officer Newby** records the violator's license plate number, description of the vehicle and anything he observes which he feels is suspicious (we like this in the jury room, as it places us mentally at the scene of the traffic stop).
- As **Officer Newby** approaches the car, the driver acts very nervous and drops his wallet outside of the vehicle. **Officer Newby** comments on his tape that he has seen this and then asks the driver why he dropped the wallet outside the vehicle. When the driver replies that he dropped it because he was nervous, **Officer Newby** has just received corroboration for the jury of his observations (many jurors take notes when they hear this).

- **Officer Newby** clearly asks the driver to explain the reason he was speeding; was it done on purpose or was it just a moment's inattention? The driver clearly replies (on tape) that he wouldn't speed on purpose, he just wasn't paying attention. This instantly corroborates the officer's initial observations of the illegal activity which prompted him to stop the vehicle, thereby taking this avenue of defense away from the defendant in court (more note taking from jurors).
- When **Officer Newby** observes what he thinks is drug packaging sticking out from under the seat of the vehicle, he asks the driver to step out of the car. Once the driver is away from the evidence, **Officer Newby** shares his observations with the driver, secures him, reads him his rights and asks him to explain the presence of drugs in the vehicle. When the driver hesitates, **Officer Newby** (on tape) offers the driver some rationalizations for the drugs being there, such as: "Is that cocaine just for your personal use or were you planning on selling it?"
- The driver denies planning to sell the drugs and says that the cocaine belongs to his brother, not him. This establishes the legal elements of the crime of possession of drugs, as he admits knowing the drugs were in the vehicle (many jurors quit taking notes at this point).

- **Officer Newby** asks the driver if there are other drugs and/or weapons in the vehicle (all of this is on tape). Throughout the encounter, **Officer Newby** remains professional in his demeanor toward the suspect.

- As **Officer Newby's** tape is being played in court, the defense attorney listens with the jury and realizes that he can't attack the officer's initial observations of criminal activity (speeding), the officer's observations of suspicious/nervous activity on the part of the suspect (dropping the wallet), the officer's observations of the drugs sticking out from under the seat (suspect admits this), the officer's professionalism (no cussing or derogatory terms) and he can't even say that his client didn't know that the drugs were in the vehicle (as the suspect said the cocaine was his brother's)

IF YOU WERE ON THE JURY, WHICH OFFICER'S TESTIMONY WOULD BE MORE BELIEVABLE AND CARRY MORE WEIGHT?

Let's remember something here: in both of the above scenarios, the officers did a great job.

First, they each saw the initial traffic violation and acted upon that observation, which led to the recovery of some illegal drugs and the capture of a "bad guy."

But now, **Officer Grizzly** faces allegations that he made a false arrest and illegal search, letting the "ends justify the means" while **Officer Newby** receives kudos from the prosecutor for making an airtight case.

For those "**Officer Grizzlys**" out there, I can sympathize with you.

I started in this business in the early 1970's and I can remember when my word was sufficient in court to convict.

Guess what? Those days are gone and they'll never be back.

We have technology available to us and the public (and legal system) wants us to use it.

So let's embrace it and do our jobs better.

What's important to remember is that by embracing technology, we can make it vastly more effective as an evidentiary tool for prosecution.

I'll deal with the aspect of obtaining admissions and confessions in this text, which will help tremendously in the prosecution of the many "bad guys" who inhabit our world.

STRUCTURED

Vs.

NON-STRUCTURED

INTERVIEWS

Essentially, there are two types of interviews conducted by law enforcement officers, structured (formal) and non-structured (informal) interviews.

The structured interview is what we think of as a classic interview setting and is certainly what is portrayed on television and the movies as the most prevalent form of interviewing in police work.

Usually (on television), the interview takes place in a police station interrogation room and at least two officers (usually Detectives) take turns grilling some hapless suspect until he/she finally gives in, usually out of exhaustion.

Most interview and interrogation training in the past has dealt with developing techniques dealing with the structured interview process, including a detailed examination of such topics as the correct placement of furniture in an interrogation room, the most psychologically advantageous color to paint the walls, the height of chairs, etc.

Although structured interviews do indeed take place every day in agencies throughout the world, they represent only a tiny fraction of the total number of interviews being conducted by law enforcement.

The overwhelming majority of citizen contacts and interviews are conducted on the street by front line law enforcement officers in non-structured settings.

Think about the very nature of police work; for every formal interview being conducted in a police station by Detectives, how many officers are out there on the street talking with suspects, witnesses and victims?

If the vast majority of interviews are being conducted in non-structured settings, we should direct the upgrading of our interviewing techniques toward the informal interview.

The beauty of the Focused Interviewing system is that it will work equally well in structured and non-structured settings.

It is designed to work quickly, to work in an emotionally charged atmosphere, to work in the presence of outside distractions and to work without any memorization of techniques on the part of the officer.

CONFRONTATIONAL- STYLE INTERVIEWING

Many of the interview and interrogation techniques being taught to law enforcement personnel emphasize confrontation, specifically the "positive confrontation."

The idea is that one makes a strong accusation, or positive confrontation, to a suspect during the interview, followed by an offered "theme" to allow the suspect to rationalize his behavior.

There a number of problems with using confrontation to achieve a confession.

Let's talk about some of them:

- Because of a lack of specific case facts, in a great many cases, the officer doesn't know (or even strongly suspect) that a particular suspect is lying.**
- Therefore, the officer is hesitant to make a "positive" confrontation which is so strong that there's no backing away from the statement (ex. "I know that you are the one who shot your wife").**
- If the suspect picks up on the hesitancy of the officer, the confrontation usually doesn't work.**
- Some officers aren't well suited to make confrontational statements toward suspects.**
- Temperamentally, outgoing extroverts make better confrontational interviewers than do introverts.**

- **Almost all law enforcement interviews, both in the field and in police stations, are now tape recorded. Confrontational-style interviewing may sound harsh and even somewhat non-professional when replayed for courts and jurors.**
- **A large percentage of crime is committed by juveniles. Yet, the public expects law enforcement officers to treat juveniles with "kid gloves" and confrontational-style interviewing may not sit well with members of the community when it's applied toward juvenile suspects.**
- **A current "fad" among defense attorneys in criminal court is to claim that their client was coerced or induced to falsely confess.**
- **Criminal defense attorneys may claim that the overpowering psychological atmosphere of the interview setting made their clients confess. Certainly, confrontation-style interviewing plays into this argument.**
- **Increasingly, the courts are holding that any police interview is basically coercive and the burden of proving differently falls to the prosecution.**

Confrontational style interviewing adds to the common perception that law enforcement officers "make" people confess.

- In some suspects, directly challenging or confronting them will have negative results.

We know that any positive confrontation to a suspect will stimulate the suspect's sympathetic division of the central nervous system.

This will trigger a reaction commonly called the "Fight or Flight" response, actually better described as the "**Fight, Flight or Freeze**" response.

In some individuals, this response will make them withdraw, others will want to run and still others will want to fight.

In a formal setting (interrogation room in a police station) it may be alright to trigger a fight response, but is it something we really want to intentionally trigger in a field setting?

I believe that there is a better way to interview in today's law enforcement atmosphere.

I have utilized a non-confrontational style of interviewing for years and have achieved great success in obtaining statements, admissions and confessions from victims, witnesses and suspects alike.

This non-confrontational style, called **Focused Interviewing**, is effective, yet low-key.

An officer doesn't have to be an extrovert to utilize it effectively.

By not confronting a suspect in a threatening manner, the technique doesn't stimulate the sympathetic division of the central nervous system, therefore the "**Fight, Flight or Freeze**" response doesn't interfere with the interview process, unless the interviewer intentionally "fires up" this response.

When the person being interviewed does "fire up" during the interview, the [Focused Interviewing](#) system will show you how to use this to your advantage, to manipulate the physiological arousal with the intention of fatiguing the interview subject.

Additionally, the technique looks far more professional and "calm" in application and doesn't convey a negative impression of law enforcement when viewed.

HUMAN TENDENCIES IN THE INTERVIEW PROCESS

A potentially bothersome human psychological characteristic which should be addressed is the tendency to lose objectivity in the interview process with those people we have come to know.

It should be noted that a direct relationship exists between familiarity and a lessening of awareness.

By that I mean it's human nature to trust people with whom we have become friends.

To demonstrate this, we must look no further than in our relationships with "informants" or "confidential sources" and the problems that have been associated with law enforcement officer/informant relationships over the years.

For example, it has been my personal observation that more narcotics officers have gotten into trouble concerning their relationships with informants than any other job factor.

Quite simply, most officers begin a relationship with an informant on a strictly professional basis, following proper safeguards and procedures to avoid even the appearance of any impropriety.

Over time, the officer becomes friendly (if not friends) with the informant.

Because officers are themselves honorable people who would not betray a "friend", once we become friends with an informant, we start psychologically projecting those personal values into the informant and ultimately the officer may come to believe that the informant would never betray the officer.

Once that happens, the officer may stop following the proper safeguards and procedures for dealing with informants and problems soon develop.

The answer is that we must strive to be friendly with people, yet still maintain our objectivity and professionalism.

This sounds easier than it actually is in practice.

For instance, all law enforcement officers are being encouraged to get involved with the community in all sorts of ways, both on and off duty, under the principles advocated in Community Policing.

The closer relationship that will inevitably develop between officers and the public is a very positive outcome of that community involvement.

The problem is that as we become friends with other human beings, we are naturally less observant, less aware, less confrontational and less likely to do anything to jeopardize that friendship.

It is a strong human tendency and must be recognized and guarded against, especially in the interview process.

Another classic example of friendship changing a professional relationship happens all the time with Probation and Parole Officers and their probationers or parolees.

Initially, most Probation/Parole Officers are vigilant and make their subjects "toe the mark."

Over time, as the subject gains the trust of the Probation/Parole Officer, the supervision usually "slacks off" and the relationship eventually may degrade into one where the Officer doesn't even want to find any violations, as they would be "disappointed" in the probationer or parolee.

When I conduct seminars with Probation and Parole Officers I always ask them this question to emphasize my point

"What happens when a probationer/parolee has been with a certain officer for a long time, then that officer changes caseloads with another P.O.?"

The Probation and Parole Officers in attendance always laugh and tell me that whenever a case load changes, inevitably the "new" P.O. finds lots of violations on the part of the probationers/parolees, which result in discipline.

What happened here?

Did the probationers/parolees suddenly turn "bad" because they got a new Probation/Parole Officer?

Not hardly, they are the same people they used to be (good or bad).

The real reason is that, over time, the old Officer became lulled into a false sense of security, bred from familiarity, that the client was doing fine and started supervising with that mind set.

In other words, they got what they were expecting.

The new P.O. didn't have any pre-conceived notions about the probationers, so he/she approached the situation with a critical eye and found some violations.

PSYCHOPHYSIOLOGY

I have presented a fleeting reference to some physiological principles which need to be more fully explained.

The Focused Interviewing system utilizes our knowledge of both the psychology and the physiology of the human body in the interview process.

The human body is a complicated system of many processes that are continuously at work keeping essential life functions in balance, or *homeostasis*.

This balance represents the body at rest, or when not confronted by any type of threat.

Medical physiologists have repeatedly demonstrated that a number of very complex factors arise when the body is confronted by a threat.

Remember that the body's "threat protection" mechanisms do not differentiate between physical and psychological threats.

An analysis of the physiological and psychological factors that are "in play" in a street encounter reveals a great deal about both the behavior of the suspect and the behavior of the officer.

Later in this text, we'll look at some factors that may be applicable in a typical street encounter between an officer and a violator.

What does the law enforcement officer represent to the offender? That's right, the L.E.O. represents a perceived threat.

Have you ever been out of uniform or off-duty and been stopped by a fellow law enforcement officer?

Do you remember how it felt when you saw those overhead lights in your rear view mirror?

Even though you knew you were a fellow law enforcement officer, did your blood pressure go up, your pulse race, your mouth become dry, your sweat glands activate and your breathing become quick and shallow?

If so, you just experienced the human body's reactions to a perceived threat.

Specifically, the body's autonomic nervous system became activated when you perceived the threat, which triggered the stimulation of the sympathetic system.

In due course, the perceived threat passed and the autonomic nervous system triggered the stimulation of the parasympathetic system to bring your body back into balance, or *homeostasis*.

Of primary interest to the law enforcement officer is what effects the stimulation of the sympathetic system has on the offender and what the law enforcement officer can do to identify, manipulate and neutralize those effects.

The following chart is reflective of the autonomic effects on various organs of the body: Fig. 2

AUTONOMIC EFFECTS ON THE BODY

Organ	Sympathetic Stimulation	Parasympathetic Stimulation
Eyes	Dilated	Constricted
Sweat Glands	Copious sweating	Palm sweating
Blood Vessels	Constricted	Little or no effect
Heart	Increased rate	Slowed rate
Lungs	Dilated bronchi	Constricted bronchi
Bladder	Relaxed	Contracted
Blood	Increased flow/coagulation	None
Metabolism Rate	Increased up to 100%	None
Adrenal Secretion	Increased	None
Skeletal Muscles	Contraction	None

By referencing the above chart, we can readily see changes that occur when we perceive a threat.

Blood pressure increases, metabolic rate increases, breathing is shallow and fast, lungs increase their capacity for oxygen, adrenalin goes up, muscles tense, eyes dilate and sweating begins.

Of additional interest to law enforcement officers is the amount of energy that the individual expends while the sympathetic system is triggered.

Both from the officer's standpoint as well as that of the suspect, the emotional roller coaster we experience in confrontational situations leaves us drained.

A case in point is that several times in my own experience, suspects have become "light-headed" or actually lost consciousness during the interview process.

Typically, these experiences have occurred after a confession was obtained, when the person's parasympathetic system was trying to bring the body back into homeostasis once the psychological threat had passed.

It is extremely difficult to maintain the "heightened state" common to a sympathetic system arousal for any extended period of time, without continual stimulus.

Example: have you ever seen a jogger stopped at a crosswalk waiting for the light to change?

The jogger is inevitably jogging in place.

That's because it's far less fatiguing to keep the body performing the physical activity than to stop, then start again.

If we recognize this effect, we can learn to selectively switch the sympathetic system on and off in the suspect, inducing rapid fatigue which will lead to overcoming psychological resistance and an admission/confession from the deceptive person.

A couple of interesting points should be mentioned here.

The first thing we should be aware of is that these physiological symptoms appear in both the offender and the law enforcement officer, whenever contact is made.

Therefore, further analysis will demonstrate that those things that interfere with successful communication in stressful situations are universal to all parties in the situation.

FLIGHT, FIGHT OR FREEZE

All human beings, when confronted by a threat, will experience one of the above sensations.

Let's examine those sensations in greater detail, and describe how they might apply in law enforcement encounters.

FLIGHT RESPONDERS

- **Flight responders literally have a tendency to run away from a situation.**
- **Will miss appointments, or be chronically late.**
- **Physically back away when interviewed.**
- **Will either erect, or hide behind, "barriers" when interviewed.**
- **May adopt a "runner's stance" when questioned, sitting on the front edge of their seat, looking like they're about to bolt.**
- **Act and/or look scared.**
- **May express a "get it over with quick" attitude.**

FREEZE (HIDE) RESPONDERS

- **Usually appear withdrawn or distracted.**
- **May curl up slowly into a fetal approximation.**
- **May close their eyes.**
- **May talk very softly.**
- **May present an unfocused gaze.**
- **May be cold or shaking.**
- **These people are more subject to the classic shock response.**

FIGHT RESPONDERS

- **Challenging, confrontational and angry when questioned.**
 - **May demand answers or actions from the interviewer.**
 - **May physically crowd the interviewer (if left to their own devices, would eventually poke the interviewer in the chest).**
 - **Loud, swearing, aggressive in speech.**
 - **Most male law violators are fight responders.**
 - **Most Law Enforcement Officers are fight responders.**
 - **See any confrontational problems here?**
-

For the purposes of this text, let's use the following example:

MEAN DOG

You are walking down a dark street at night.

The street has no illumination, but faint ambient light is present from porch fixtures on the various houses.

Suddenly, you hear the sound of toenails scratching on the sidewalk, hear a low growl and immediately you are confronted by a large, angry dog.

Depending upon your individual personality and other factors (background, familiarity with dogs, etc.), you will have an immediate desire to either; run away from the dog, freeze (hide) from the dog or advance upon the dog, intent on aggressing the animal.

No matter which response your body initially chooses, upon perception of the threat, the autonomic nervous system immediately stimulates the sympathetic system.

Within seconds, from the unseen shadows, the dog is called off by his master, who appears in the light and apologizes profusely to you for the animal's aggression.

How do you feel?

Remember, the dog is under control, the threat has passed.

Only now do you become aware of the fact that your heart seems to be thudding in your chest, you're sweating and can't seem to talk in a normal voice.

You may have the urge to sit down.

What we've just experienced is a first hand demonstration of the sympathetic and parasympathetic systems at work.

What we may not know is that the owner of the dog has also experienced a similar stimulation of the autonomic nervous system and is experiencing similar sensations.

Many interesting things occur from this point forward in this typical encounter.

Depending upon (primarily) your personality type, let's look at how you might respond, as the late-night walker.

Fig. 3

FLIGHT RESPONSE	If we have started to run away from the dog, we'll either keep running or slow down into a fast walk away from the situation, ignoring the dog owner's apology.
FREEZE RESPONSE	If we have frozen in place, we may have our eyes closed and be drawing up into a fetal position, crouched. We will not be able to talk well and may even "pass out" or become faint. We will accept the dog owner's apology and may apologize ourselves for scaring the dog.
FIGHT RESPONSE	Our immediate anger will cause us to try and kick or hurt the animal or the owner. Verbally, we will become abusive instantly toward the dog owner and may challenge the owner to a fight.

We can readily see that while the body's reaction to the perceived threat will trigger universal physiological responses from the autonomic nervous system, the outward expression of that triggered sympathetic stimulation will vary widely.

The owner of the dog has experienced these same physiological sensations during the encounter.

When he or she realizes that their dog is about to bite someone, they will also have some choices to make.

Depending upon their personality type, the dog owner will either;

- 1. Walk away and pretend that it isn't their dog (flight response).**
- 2. Crouch down and stay in the shadows, or look away like they didn't see anything (freeze response).**
- 3. Yell at the dog (and most likely the innocent walker) and become very upset (fight response).**

What can become a confrontational situation is when the dog owner and the innocent walker both have a "fight response" personality type.

In this scenario, the walker will be yelling at the dog and aggressing it, while the dog owner will be yelling at both the dog and the walker.

It is easy to see how a physical altercation may ensue in this circumstance.

TRAFFIC STOP

While on routine patrol, you observe a vehicle approaching you at a rate of speed obviously above the posted speed limit. You pull a U-turn and effect a traffic stop on the violator. What psycho-physiological factors may apply in this situation?

FLIGHT RESPONSE	<p>Initially, this person may not stop and may try to "make a run for it" (pursuit situation).</p> <p>If they do stop, they will be in a hurry, will be quick to comply with all of the officer's requests (paperwork, etc.), will agree quickly to the violation, won't look at the citation before signing, etc.</p> <p>In general, they want to get away from the officer as fast as possible. They generally won't look the officer in the eye when conversing.</p>
FREEZE RESPONSE	<p>This person may visibly "slump" down when approached, won't make eye contact with the officer, will talk softly and may start crying.</p> <p>They just don't want to be there.</p>
FIGHT RESPONSE	<p>May try to get out of the car and walk toward the officer as soon as stopped; will be verbally challenging "Why the hell are you stopping me?"; will be breathing heavily, have dilated pupils, may have clenched fists, rigid posture.</p> <p>May experience auditory exclusion, that is, they may have trouble hearing or responding to the officer's requests.</p> <p>May physically fight. May escalate situation quickly.</p>

We can see from the above chart that a fight responder will be the most difficult person to deal with in most situations.

If we can identify the physiological response pattern we stand a better chance of "turning off" that response or redirecting it in a more positive manner.

PSYCHOLOGICAL SET

The term psychological set refers to a process of selective attention, or mind focus.

Selective attention is an indispensable adaptive function.

We cannot process all the information that impinges on our faculties at any given moment, so we focus on what appears to us most important and filter out the rest.

Thus a person's fears, anxieties and apprehensions are channeled toward the situation which holds the greatest immediate threat to his/her self-preservation or general well-being.

The person's focus is on that which indicates trouble or danger by having his/her sense organs and attention focused for a particular stimulus, and tune out that which is of a lesser threat to his/her legitimate security or general well-being.

Thus, the person establishes his/her own psychological set.

(Matte, James Allan. Forensic Psychophysiology Using the Polygraph, 1996)

Psychological set may be best exemplified by the body's well-documented reactions when law enforcement officers are involved in deadly force situations.

For example, we have all heard and read about officers involved in shootings that report a having "tunnel vision" and others who report a complete inability to hear sounds during the firefight (auditory exclusion).

Let me tell you about a real-life experience I had which illustrates this phenomenon.

Early in my career, I was working a late night patrol shift in a single officer marked patrol unit.

It was two days before Christmas and the weather was miserable, rain coupled with near-freezing temperatures.

I was bored because no one was on the streets and no calls were being dispatched.

I heard another single officer unit check out on a "disabled motorist" reasonably close to where I was, so I swung over that way to provide cover.

Upon my arrival, I watched as the patrolman approached the "disabled " vehicle, sitting in the rain with its hood raised.

Suddenly, the "motorist" jumped from the vehicle, slammed the hood and sped from the scene.

In those days, if someone ran from the police, you chased him and you kept chasing him until the wheels fell off your patrol car or you ran out of gas.

In this case, as the "motorist" sped away, I was positioned the right way to be the first car in the

pursuit.

We chased this guy all over the place, watching while he smashed into numerous vehicles, finally cutting a telephone pole in half.

I figured that I needed to stop the guy, so I rammed his car in a classic "T-Bone" configuration.

In the process of the ramming, I ruptured my radiator, so steam was escaping from the front of my car, obscuring my vision as we both ground to a stop.

As I exited my car and took cover behind my engine block, weapon in hand, I strained to see through the steam clouds.

I was astonished to see that the violator was reaching into the back seat of the car into some kind of a musical instrument case.

It turns out that he was an escaped convict from a Texas prison and he wasn't going back to jail.

He had been watching a small gas station convenience store with his hood up on his car and wasn't a "disabled" motorist at all, but rather an armed robber about to initiate the crime when the original officer stopped to "help" him.

As I watched through the intermittent steam, he pulled a sawed-off shotgun from the case on the backseat and turned and looked right at me.

He continued this action even though I was yelling at him to freeze.

I fired my handgun as he was swinging the shotgun towards me, firing twice through his windshield.

My bullets struck him in the forehead and he involuntarily squeezed the trigger of the shotgun, right as he was bringing it across the headrest.

The shotgun discharged, blowing his head pretty much off.

As I watched this spectacle, and as my backup officer stood there watching, we started talking excitedly about the chase and the shooting and, of course, the gruesome death.

We talked for probably 30 seconds back and forth before the first responding assist officer arrived on scene.

When the assist (a veteran Patrol Sergeant) walked up, he told us to turn off our sirens.

We had been standing right in front of my patrol car with the siren blaring and both of us were oblivious to the sound!

It wasn't until the sergeant pointed it out that we realized the siren was on.

Once our attention was directed toward the noise, it hurt our ears.

My body, in this instance, had shifted and narrowed its psychological set to focus almost exclusively on the immediate threat, the gun pointed at me and the life-and-death situation that faced me.

Essentially, the mind "disregarded" the input coming from the auditory nerves, relegating it to a lesser important status than the life threatening event right before me.

Even life-essential functions, such as breathing, may be temporarily suspended while the body focuses on the more immediate threat.

Basically, the body "tunes out" that stimuli which it deems is of lesser immediate importance.

BEHAVIORAL ASSESSMENT

Much has been written about nonverbal behavioral analysis.

Researchers estimate that at least 55% of all communication between humans is derived from nonverbal "language" or postures.

The traditional thinking concerning body language is that by interpreting body posture, gestures, movements and facial expressions, personal "ticks" or gestures and eye positioning, the astute investigator will be able to discern between truth and deception.

The general theory surrounding nonverbal behavioral analysis is based upon the premise that when the body is confronted by a threat (either physical or psychological), the delicate balance that exists within the human body (*homeostasis*) is disturbed.

As we have discussed previously, the sympathetic division of the central nervous system dumps chemicals into the body which affect muscles, heart rate, breathing, perceptions, vision, etc. (see Autonomic Effects on the Body chart illustrated previously).

That disruption of *homeostasis* leaves the body with an excessive amount of energy, which must be dissipated (either chemically or by physical activity) before the body returns to it's resting state.

The long-held theory is that by watching the body movements during the period of stimulation of the sympathetic system, valuable inferences can be drawn as to the truth or deception of the person involved.

In order to discuss nonverbal behavioral analysis, it is necessary to define the process.

First, let's examine some basic body language indicators. In general, the following characteristics have been attributed to either truth or deception:

Body Posture

- **The Truthful subject will tend to sit upright, but not overly rigid or "paralyzed with fear"**
- **The Truthful subject will tend to basically sit frontally aligned with the interviewer.**
- **The Truthful subject will tend to lean forward with interest.**
- **The Truthful subject's body posture will tend to be "open" i.e., without crossed arms or legs.**
- **If the Truthful subject's body posture changes, it will tend to be smooth in nature and not hurried and/or jerky.**

- **The Deceptive subject will tend to slouch down while sitting.**
- **The Deceptive subject may be unnaturally rigid in posture.**
- **The Deceptive subject will tend to turn either away from, or at an angle to, the interviewer.**
- **The Deceptive subject will tend to try and hide behind a barrier; either a desk, chair or his/her arms or legs.**
- **The Deceptive subject's elbows will tend to be close in, hands will be on his/her lap.**
- **The Deceptive subject's body posture changes will tend to be hurried, jerky in appearance.**
- **The Deceptive subject may indicate a lack of interest in the topic.**
- **The Deceptive subject may appear defeated, may hang head or put head in hands.**
- **The Deceptive subject will not make eye contact with the interviewer on a prolonged basis.**

Gestures

- **The Deceptive subject may rest his/her head or chin on their hands (internal support)**
 - **The Deceptive subject may have their arms folded/crossed (barrier)**
 - **The Deceptive subject may be leaning back in chair (distancing themselves from threat)**
 - **The Deceptive subject may exhibit picking, rubbing of hair, scratching, nail biting.**
 - **The Deceptive subject may engage in leg bouncing, tapping of fingers, humming, shuffling of feet.**
 - **The Deceptive subject may be yawning, sighing, clearing throat, licking lips.**
 - **The Deceptive subject may feign tiredness or sleep.**
-

Eyes - "The Windows to the Soul"

- **Normal eye contact between adults has been measured in conversation as being maintained between 30 and 60 per cent of the total time.**
- **In general, truthful people will maintain eye contact longer than deceptive subjects.**
- **Deceptive people tend to feel that their guilt can be easily detected by observation.**
- **Cultural norms play a very strong role in the length of time someone will look you in the eye. In some cultures, eye contact is totally discouraged and is a sign of disrespect. This is not to be taken as a sign of deception.**
- **Juveniles may not look an adult interviewer in the eye.**
- **Stares by the suspect directly into the eyes of the interviewer which exceed the "normal" length of time are usually a challenge.**
- **Generational values may dictate that females will not look male interviewers directly in the eyes for any length of time.**

Vocal Characteristics in the Deceptive Person

- **Speech hesitations** – mumbling, slurring, mixing of words
- **Speech errors** – inadvertent, words that seem to come from the sub-conscious
- **Pitch and tone of voice** – intonation may change and pitch may raise when someone lies – does not apply to all people
- **Speech rate changes** – deceptive people tend to hurry up their speech, as a result of adrenalin in the body
- **Frequency of pauses in speech** – deceptive people take pauses to try and make up a story as “they go along”
- **Duration of pauses in speech** – thinking hard, you can almost see the wheels turning.

GENERAL NON-VERBAL DIFFERENCES BETWEEN TRUTHFUL AND DECEPTIVE PEOPLE

TRUTHFUL

- **Relaxed and confident in appearance**
- **Frontally aligned with interviewer**
- **Illustrates his story**
- **Natural body position, feet and legs settled.**
- **Arms away from body.**

DECEPTIVE

- **Tense and defensive in appearance**
- **Body aligned at an angle to the interviewer**
- **Tense, repetitive body movements (foot tapping, finger tapping, touching hair and face).**

CAUTIONS

Be cautious when applying the non-verbal behavioral analysis on the street, without taking into consideration the following "exceptions" to the above indicator rules which may render an analysis invalid.

Those "exceptions" include:

- **Cultural differences** (in many cultures, looking directly at someone is considered a sign of disrespect and is a challenge. Therefore, many people will hang their heads, mumble, not look an interviewer in the eye and will even turn slightly away, out of a respect for the authority of the interviewer, not as a sign of guilt).
- **Gender differences** (particularly prevalent in older people, where females will not look male police officers directly in the eyes, except for fleeting glances).
- **Mental instability** (see also drug involvement below)
- **Drug involvement** (paranoia may keep a subject from looking directly at the interviewer or conversely, may bring out an aggression which initiates a "staring contest").
- **Nervousness** (will exacerbate body posture changes and/or personal gestures)

- Previous negative experiences with law enforcement.
- Mannerisms which appear abnormal but are in fact normal for the involved person.

I can't even remember the number of times that an investigator has brought someone to me for a polygraph to "clear" that individual because the person "comes across straight."

In other words, the investigator's analysis of the person's "body language" has led him/her to conclude the person was truthful.

In my pretest interview with the person, I too notice that they come across real well, sitting straight, paying attention, looking me right in the eye while they professed their innocence.

I am always amazed a short time later when the person has shown deception on the polygraph and has then confessed to the crime.

The opposite is true, of course, where people have exhibited great stress non-verbally and have made themselves look deceptive in the eyes of the interviewer.

Later, their innocence has been proven, to the amazement of all.

It makes me wonder how many times I have misread people in the field and let suspects get away, or accused someone of something they really didn't do, because I based my impressions solely on their non-verbal behavior.

In contrast to the generally accepted theory concerning the validity of nonverbal body cues, my own experience in interviewing and interrogation and as a criminal polygraph

examiner reveals that "body language" alone is a terrible way to try and determine truth or deception.

However, an analysis of non-verbal behavior, when coupled with verbal indicators, is **VERY ACCURATE** and extremely beneficial in determining truth or deception.

Let me explain how to make the credibility assessment process work much better.

The primary breakdown on the part of the law enforcement officer in assessing body language is the fact that we don't spend enough time with the suspect, assessing their normal body behavior, before we interject the stimulus.

In other words, we don't have an accurate evaluation of the person's normal mannerisms and thus have not established a baseline.

The best way to utilize nonverbal behavioral analysis is to talk with people about irrelevant, or non-threatening, matters at some length, all the while watching them, their mannerisms, gestures and eye contact when they are not stressed.

Only after establishing this "behavioral baseline" can we accurately make inferences from changes to that behavior upon the introduction of stress into the conversation.

Even then, we don't know if that baseline change is due to deception or another emotion, do we?

Obviously, the biggest problem with effectively utilizing this approach is that street law enforcement officers are always rushed for time.

To add 10 - 30 minutes to every street interview just to evaluate nonverbal behavior is simply not practical.

All in all, nonverbal behavioral analysis works far better in a structured, controlled setting like that which occurs in a police interview room.

It works considerably less well in a dynamic situation, such as that encountered by street officers.

In the field, the only non-verbal behavioral changes that seem to be worth noting are dramatic, sudden, multiple body changes that are timely with the application of stress (as would occur when you ask a direct question) AND CORRELATE WITH VERBAL INCONSISTENCIES.

A much more applicable street-level analysis is the credibility assessment, as described below.

CREDIBILITY ASSESSMENT

When an incident occurs, law enforcement officers are charged with the task of separating possible witnesses (those who actually saw the event) from others present who may have just been attracted to the crowd or who just heard about the incident secondhand.

Additionally, some of the witnesses present may in fact be suspects.

The more time that passes between the occurrence and the interview exacerbates this problem, because witnesses will start incorporating rumors into their own stories until it's difficult to separate truth from fiction.

How then do we talk to people present at a crime scene and determine which ones have useful information?

One of the best ways to conduct a preliminary scan is with a Credibility Assessment, which is based upon our observations of the person's physical mannerisms, the credibility of their story and their appropriateness of conduct.

In general, I look for the following indicators when interviewing possible witnesses, which are indicators of heightened stress and may lead me to a suspect:

1. **Appropriateness of story:** does the person's story sound right? Does it mesh with that of other witnesses to the event? Is the story told in clear terms without hesitation?
2. **Emotionality:** is the person properly emotional? Are they over-emotional or completely without emotion?
3. **Corrections:** people accessing stored memories will correct themselves while people making up a story will not correct themselves for fear of looking deceptive.
4. **Pronouns:** deceptive subjects tend to leave out pronouns, because they really weren't at the scene.
5. **Main Issue:** truthful people will talk about the incident in at least 60% of their story, while deceptive people tend to avoid the crime issue, or minimize it (10%).
6. **Hand Gestures:** Persons remembering an event will use more hand gestures than those making a story up.
7. **Sensory:** truthful people talk about how something smelled or felt to the touch (because they were really present), while deceptive people will only relay how something looked.
8. **Liars lie visually, they talk about what they saw.** They don't talk about what they felt, what it sounded like or smelled like.
9. **Liars remember stories in chronological order.** Truthful people can tell the story backwards, element by element, while liars cannot.

A useful tip when questioning suspected liars is to jump to a point in the middle of their story and ask them specific details about facts in that area. Truthful people will have no problems answering the questions, liars will have to “rewind” their story to that point, the “fast forward” it to the middle. It's fun to watch 😊

Typical Verbalization of the Deceptive Person

- **Evasive answers**
- **"Slips of the Tongue"**
- **Memory too good or a total failure**
- **Complain Excessively**
- **Offer excuses rather than facts**
- **Overly polite to interviewer**
- **Bolster their credibility with "props" (bible, crucifix, cross)**
- **Deny that any crime actually happened**
- **Become "street corners" lawyers - tell you the law.**
- **Minimizing or softening crime**

DIFFERENCES IN VERBALIZATION BETWEEN TRUTHFUL AND DECEPTIVE PEOPLE

TRUTHFUL

- **Story is rich in detail**
- **Story is told in first person singular, past tense**
- **There are no gaps in time in the story - it "flows"**
- **Appropriate emotions displayed.**
- **Talkative**
- **Uses appropriate and strong terms**
- **Expresses real feelings**
- **Wants investigator to find the truth and clear them.**
- **Narrows the investigation "It had to be someone who works here"**

DECEPTIVE

- Noticeable lack of detail
- Changes from first person to third, past tense to present
- Gaps in story - doesn't "flow" well
- Emotionless or emotions displayed at inappropriate times
- Factually incorrect account of story.
- Wants truth hidden
- Says investigator will probably never solve the crime
- Denies opportunity to commit the crime
- Uses mild, evasive, "soft" terms
- Has no information.

- **Tries to broaden the investigation "It could have been anyone"**
- **Detached and distant.**
- **Not talkative.**

After looking at all of the above indicators, determine whether the observed person is acting normally (considering the situation) or is acting abnormally.

If there are no "red flags", probably you have an innocent person.

If there are several "red flags", then separate this person into a group who at least deserve a closer look.

At actual crime scenes, it is not uncommon for investigators to interview 30 people and come up with 3 or 4 who are exhibiting verbal/behavioral "red flags" and have to be interviewed in greater detail.

The best way for a law enforcement officer to determine truth or deception in the field is to combine a behavioral (non-verbal) assessment with the verbal credibility assessment above.

GUIDELINES FOR DETECTING DECEPTION

in

Field Situations

- **Be suspicious - do not take stories at "face value."**
- **Ask probing questions designed to elicit more information.**
- **Try not to give away any more information than necessary.**
- **Ask people to repeat their story - note discrepancies.**
- **Avoid stereotypes and biases.**
- **Establish baseline observations of people when asking them irrelevant question - then compare their behavior when asking relevant questions.**
- **Be forearmed with as much case info as possible before the interview.**

RATIONALIZATION

Simply put, rationalization is a psychological term that allows someone to save face, allowing the person to feel better for something they have done.

If we allow someone to feel comfortable about their selves, our chances dramatically increase of obtaining a confession or admission.

Various methods are utilized to aid in this rationalization, but the primary method employed involves contrasting the act a person is suspected of committing with a more serious, or morally repulsive, act.

For instance, if a person is suspected of a burglary, the investigator may say something like:

"John, we already know that you've committed this theft, that's not what I want to talk to you about. What I'm very concerned about is that we've also been hit real hard in this neighborhood by someone that has been breaking into houses and raping women. John, have you been raping women or did you just do this burglary? Have I caught my rapist?"

By analyzing the above conversation, we can readily see that a suspect's tendency would be to admit the burglary, rather than be accused of being a rapist.

By contrasting the burglary with a more serious and morally repugnant crime (rape), the suspect is allowed to save face.

By rationalizing his behavior in the burglary as not being as bad as a rape, the suspect feels better about the fact that he has "only" committed the burglary and admits to it.

The real beauty of developing ways to let the suspects save face is that, if we let them, the suspects will develop their own rationalizations for committing the crime.

All we have to do is let them tell their whole story in an unhurried, uninterrupted, narrative fashion.

Then, we have to listen to what they really say, not a summary of what they say.

By paying attention to their actual words, we can readily see that the person themselves is offering their own rationalizations for their behavior.

At most, we may prompt them (at the conclusion of their narrative account of the incident) to give us more details by asking the following:

- **Why do you think this happened?**
- **What kind of a person do you think may have done this?**
- **What do you think ought to happen to that person when we catch them?**
- **Why do things like this happen?**

After asking the above questions, **really listen to the answer.**

Odds are, the person will have furnished you with their rationalizations for committing the offense.

We call them the **"keys" to successful interviewing, because they unlock the person's secrets.**

Once unlocked, the secrets will come out and the information will flow from the person.

The trick is to use the same rationalizations back to the person being interviewed as they gave you in their narrative.

After all, how can they object to your line of reasoning about why they committed the crime?

It's their own words, fed right back to them.

EGO

Most cops instinctively know on a logical level that suspects we encounter have to be handled with their egos in mind.

Why are we taught in basic training that it is a mistake to ridicule someone in front of their family or friends?

Because if we humiliate or degrade them and back them into a corner, they'll fight.

Common sense tells us that if let a suspect "save face," they are more apt to admit their involvement in a given situation.

Conversely, if we do it wrong, we can demean someone in a given situation to the point that they literally have to respond aggressively, just to save face.

We know that law enforcement officers can escalate or de-escalate most situations, simply by the way in which the officer behaves.

We have all seen situations that were *simmering*, but not violent, when a hot-headed officer arrives on scene.

Within seconds, the officer has gotten into a verbal conflict with someone and the situation blows up into one of violence.

By not allowing someone to save face, we may be literally demanding an aggressive response.

In any event, effective interviewing is not possible in a situation where the person being interviewed is not allowed to retain their dignity.

EXERCISE

Relate the best "ego saving" line you have ever heard someone use in an actual situation. What effect did that approach have?

Relate the most challenging line you have ever heard someone use in an actual situation.

If the person was psychologically "backed into a corner", what effect did that approach have?

HOW CAN WE DO IT BETTER?

Thus far, we have examined what happens in the body when confronted by a threat; what systems are involved and their effects on the body; nonverbal behavioral analysis, the concepts of psychological set and rationalization.

By gleaning the parts that work, and discarding those that don't, we can learn to be far more effective in typical street encounters.

The Focused Interviewing system employs a format where we learn to ask structured, focused questions with a specific goal in mind, while being cognizant of the rationalization process inherent in all individuals.

We know that by letting a person tell us their story in an unhurried, uninterrupted manner, they will provide us valuable "keys" with which we can start the flow of information.

What may be a specific goal of an interview?

That depends upon the subject being interviewed and the crime in question.

For instance, suppose we observe a suspect speeding.

We effect a traffic stop and initiate a conversation with the speeder.

We know what the elements of the crime of speeding are, and what things are irrelevant.

Our focused questions should elicit statements from the offender that corroborate our observations that this person was speeding.

Our method of questioning should utilize the psychological principle of rationalization while avoiding the person's natural inclination toward denial.

Additionally, we should take into consideration the **FLIGHT, FIGHT OR FREEZE autonomic system response and learn to manipulate that response to achieve our desired outcome.**

Specifically, we should learn to turn the responses on and off to accentuate fatigue on the part of the suspect, lessen aggression and divert hostility, thereby lowering the suspect's psychological resistance.

SPEEDING

Consider the following imagined conversation which is typical of how we do it now:

Officer: *Good day, do you know why I stopped you?*

Driver: *No, What did I do, Officer?*

Officer: *Let me see your driver's license, registration, etc.*

Driver: *What are you stopping me for? I didn't do anything!*

Officer: *(angrily) I stopped you for speeding. I will be issuing you a citation. Please remain seated in your car.*

Typical, right? Now let's analyze why we ask certain questions and how we can ask more effective questions.

First of all, why do we typically ask a person "*Do you know why I stopped you?*"

Do we really think that a statistically significant amount of people are going to say "*Sure I know why you stopped me. I was speeding, driving faster than all get out. Now I think I need a ticket.*" Funny, huh?

But we continue to ask this question nearly every time we stop someone.

Let's think of a far more effective technique, one which allows a person to rationalize their behavior (save a little face), but still lets them admit their guilt.

Officer: *Good afternoon, is everything okay?*

Driver: *Yes, why? What did I do?*

Officer: *Well, clearly, you were speeding. Now, there are usually three reasons a person speeds;*

- 1) there is some type of emergency,*
- 2) they just weren't paying attention or*
- 3) they knowingly violated the speed limit.*

So, if there's anything wrong, let me know. I can see that there doesn't seem to be an emergency, so what is it: were you just not paying attention or were you speeding on purpose?

Driver: *I just wasn't paying attention, I wouldn't speed on purpose (rationalization).*

In the above scenario, we've stated the reason for the traffic stop and we've offered alternatives for the behavior (speeding), which allow for rationalization, said alternatives not amounting to a legal defensive for the violation.

Additionally, we have constructed our encounter in such a way that we present a caring, reasonable demeanor when we inquire about the possibility of an emergency.

We know from our knowledge of the law that no matter which alternative the driver chooses (emergency, inattention or willful violation), the driver has admitted the offense of speeding.

This approach has a much better chance of successfully gaining an admission of guilt from the suspect than saying merely "Do you know why I stopped you?"

SPEEDING AND MAD

Now, what would we do if the driver had been combative or potentially violent (fight response)?

Officer: *Good afternoon. Is something wrong?*

Driver: *God damn-it, why'd you stop me? I didn't do anything (yelling). You guys are always screwing with me.*

Immediately, we categorize this person as having a fight response to the threat presented by being stopped by the police.

First of all, we need to deal with any physical threat presented if the driver actually tries to harm us.

But for these illustrative purposes, let's assume that the person is just mad and yelling.

We have an opportunity to either diffuse this situation or let it escalate into a much larger problem.

We recognize that this type of individual will not respond favorably to a direct confrontation.

We quiet our speech (volume), smile and say the following:

Officer: *Is that one of those new Dodge Neon cars?*

Driver: *What?*

Officer: *Is that one of those new Dodges? I just bought my kid (wife, self, etc.) one of these. Has it been a good car? Do you like it?*

Driver: *Uh, yeah, I guess so (quieter).*

Officer: *May I see your driver's license?*

Driver: *Yeah, I guess so. Why the hell'd you stop me (firing back up?)*

Officer: *Is that the 3.2 liter engine or the 4.1?*

Driver: *What? Oh, I guess it's the bigger one (calming again).*

Officer: *Does it have enough power? I couldn't afford the big engine.*

Driver: *Yeah, it's got plenty of power (handing the license over).*

At this point, the officer continues to ask the driver irrelevant questions about the car whenever he feels the situation is heating up.

In this manner, the officer can redirect the driver's fight response without directly challenging him, which would strengthen the response.

The entire traffic stop situation, including any arrest(s), if necessary, can be handled in this manner by carefully switching between the traffic violation and the innocuous conversation about the car.

We recognize that the suspect's *psychological set* has been directed on the threat we represent reference the speeding violation.

The suspect is geared up to handle, or face, that threat. By making the suspect switch back and forth between the threat (speeding) and the non-threat (his car), the suspect cannot physiologically maintain the stimulation of the sympathetic system and his anger will dissipate.

Boiled down to its essential components, the **Focused Interviewing system involves the following:**

- **Determine the elements of the crime in question and thereby establish a goal for the interview.**
- **Observe the behavioral characteristics of the person we are contacting (suspect, victim, witness, etc.) and categorize that response as either **FIGHT, FLIGHT or FREEZE.****
- **Ask the subject being interviewed to relate the story to you, from the beginning, without interruption. Listen to what the subject actually says during that narrative. He/she'll give you the keys to unlock their resistance and open them up in the subsequent interview.**
- **Craft a line of questioning which allows the person to admit to the violation, while saving face and rationalizing their behavior against something more serious or morally repugnant.**
- **Side-step hostilities by switching the person's *psychological set* on and off by diverting the person's attention with irrelevant questions.**
- **Ask many more seemingly irrelevant questions. Get many details from suspects and witnesses (note - incidental lies may be of significance at trial).**

- **Observe dramatic, timely changes in the person's body postures (body language) to stimuli we introduce.**
 - **Listen to what the person is really saying, not what we think the person's saying.**
 - **Continue applying the *psychological set switching* (on and off) to mentally fatigue the suspect, thereby overcoming resistance.**
 - **Overcome resistance by using the keys the subject has already given us in the narrative section of the interview, using his/her own words back to them.**
 - **Minimize the seriousness of the person's role in the crime - exaggerate/minimize as a means of gaining a partial admission, then work to develop the partial admission into a confession.**
-

EXERCISE

You are dispatched to a traffic incident which involved a delivery man apparently falling asleep at the wheel and drifting off the roadway, knocking over a road sign.

The man's company truck is damaged and the sign is demolished. No other vehicle is involved.

When you arrive on scene, the man is pacing back and forth in front of his truck, looking at his watch and muttering angrily to himself.

You overhear him making statements to the effect that his company places unrealistic time/distance expectations on it's drivers.

- **Craft a line of questioning which:
 - **Accomplishes your goal of obtaining information, which**
 - **Diffuses his anger, and**
 - **Allows him to save face.****

 - **Identify what psychological factors may be at work in the mind of the truck driver.**
-

DRUG INTERDICTION

Now, let's apply the **Focus Interviewing System** principles to try and resolve many common patrol situations.

For our purposes, let's define drug interdiction as a pro active approach to drug enforcement which combines an officer's expertise in traffic enforcement and his/her knowledge in identifying obvious drug trafficking indicators, the objective being the apprehension of mobile drug couriers and the confiscation of illegal drugs.

An officer may make dozens of traffic stops per shift for observed traffic violations.

Occasionally, one of these traffic stops may escalate into a drug interdiction stop with a vehicle search and an arrest as the ultimate result.

Drug interdiction presents extraordinary danger to the patrol officer, due to the increasing penalties associated with drug trafficking.

The unsuspecting patrol officer may not even realize he/she has stopped a mobile drug courier.

The problem is that paranoid drug couriers immediately think that the law enforcement officer knows they are transporting drugs and may flee or hurt the officer.

As with any other criminal investigation, vehicles stopped for traffic violations must be approached as though evidence of criminal activity may be contained inside the vehicle.

Therefore, the officer must use sharp observational skills, as well as apply recommended officer safety procedures, to formulate a plan to successfully

determine whether this is a traffic violator or a mobile felon.

The steps leading to a successful interview in a drug interdiction stop are classified as follows:

Before- Contact Indicators

- **Observed traffic violations**
 - **Observed vehicle defects (equipment)**
 - **Reasonable Suspicion or Probable Cause developed through other sources (information from Dispatch or other officers, etc.)**

 - **Vehicle/Occupant Appearance:**
 - **Vehicle has overloaded or heavy look**
 - **Dirty license plates on clean car or the other way around**
 - **Bug spattered rear license plate**
 - **No luggage visible**
 - **Spare tire in back seat**
 - **Windows rolled down during cold weather (dissipation of odor)**
 - **Windows rolled up during hot weather without motor running (door window cavity filled with drugs)**
 - **Radar detector or magnetic CB antennae in rental vehicle (convoy situation)**
 - **Oversized or new tires**
 - **Scent of either marijuana or masking agents upon approach**
 - **Appearance of: driver fatigue, growth of beard, unkempt, dirty.**
-

- **Driver immediately exits vehicle and walks toward patrol car (**Fight Response**).**
 - Demands to know reason for stop
 - Doesn't want to get back in his car
 - Hits or bangs on their steering wheel
 - Seen talking loudly to him/her self
 - Cursing
 - Adjusts mirror to stare at officer
 - Watches every movement of officer(s)
 - Argues over reason for stop and citation
 - Threatens to complain on officer
 - May threaten or commit violence

- **Driver either flees or won't stop for a distance (**Flight Response**).**

- **Anxious to leave**
- **Never asks reason for the traffic stop**
- **Shaking/trembling**
- **Avoids direct eye contact with officer**
- **Does not want to turn car off**
- **Fast, jerky movements**
- **Does not want to discuss citation, just wants to sign it**
- **Does not appear to be listening, may turn up music radio (escape)**

- **Driver slumps down behind front seat upon your approach (**Freeze Response**).**
 - **Driver pulls far off the roadway when stopped**
 - **Driver doesn't roll down window or unlock door until asked**
 - **Avoids direct eye contact**
 - **Driver either won't talk at all or talks so low its nearly inaudible**

- Driver has no questions
- Driver will stay in car for extended periods without asking why
- Driver may stutter or ask questions to be repeated.

The law enforcement officer has made the initial observation(s), which led to the traffic stop.

Next, observations were made concerning the outward physical appearance of both the vehicle and the occupant(s) and finally, the officer has categorized the offender's primary physiological response type (**Fight, Flight or Freeze**) based upon the observed behaviors.

Let's assume for our purposes that the officer has decided to question the occupant about possible involvement in drug trafficking.

Focusing exclusively on the method of the interview (we are not dealing here with officer safety issues, backup officer deployment or the myriad of other considerations inherent in any traffic stop/detention situation), we can construct an interview scenario designed to accommodate each type of physiological response.

For our purposes, let's assume in each scenario that we've already gotten the preliminary information from the suspect.

Just as in other criminal offenses, we have to establish goals for the interview.

Those goals in this case will be to document enough facts to establish probable cause (or at least reasonable suspicion) that the elements of the crime of drug possession (trafficking, distribution, sales or transportation) are present.

Additionally, we must be cognizant of the fact that the charge of criminal conspiracy may be established, with or without the presence of drugs.

Fortunately, the **Focused Interviewing system works very well in drug interdiction situations.**

Due to the sheer volume of information that must be asked, it is easy to intersperse **RELEVANT questions with **IRRELEVANT** questions to diffuse any apprehensions or hostilities on the part of the offender.**

Let's examine an actual drug interdiction interview (transcription from tape recording).

The officer stopped this car for speeding.

Prior to the stop, he ran an NCIC check on the license plate and the car showed as not being stolen and the registered owner as not being wanted.

Officer: *Good afternoon. May I see your license, registration and proof of insurance please?*

Suspect: *This isn't right, I wasn't going any faster than everyone around me... (handing the officer the paperwork)*

Officer: *Sir, may I ask you a question?*

Suspect: *What?*

Officer: *What year is this vehicle?*

Suspect: *Uh, a 1995...now let me tell you, I didn't do...*

Officer: *Sir? What make is the car?*

Suspect: *You have the registration in your hand, don't you?*

Officer: *I just want to see if it's a stolen car. You didn't steal it, did you?*

Suspect: *What? Of course not. Okay, it's a Ford F-150 pick up truck.*

Officer: *I notice that it's not your name on the registration, so that's why I asked. If you had a car stolen and I stopped someone else driving it, wouldn't you want me to ask some questions like this?*

Suspect: *Yeah, sure, I'm sorry, I'm just worked up.*

Officer: *I can see that you look tired and the truck has all kinds of food wrappers and stuff all over the seat. Are you driving straight through?*

Suspect: *Yeah, I'm headed for Salt Lake City.*

Officer: *What's your relationship to the registered owner of this vehicle?*

Suspect: *A friend.*

Officer: *What's her address?*

Suspect: *I don't really know, I don't know her that well. Somewhere in Stockton.*

Officer: *Could she live on the outskirts of Stockton in another small town? (The address was actually in Stockton, California).*

Suspect: *Yeah, that's right, she lives in another town.*

Officer: *Are you an honest person?*

Suspect: *What? What's that got to do with anything?*

Officer: *Does she really know that you've got her car?*

Suspect: *Shit yeah, her boyfriend gave it to me. It's completely legit.*

Officer: *What's his name?*

Suspect: *Jason something. I can't remember his last name.*

Officer: *Could I call either the registered owner or Jason and verify that it's all right that you have this car?*

Suspect: *I don't have their telephone number.*

Officer: *You don't have any stolen property in here anywhere, do you?*

Suspect: *Of course not. I'm not a thief.*

Officer: *You look like an honest person. Are you the type who tries to follow the laws or do you intentionally go around breaking all kinds of laws?*

Suspect: *No, of course not, and I wasn't*

Officer: *That's good, because I'd like to ask you a question.*

Suspect: *What?*

Officer: *When I stop out of state people for speeding, it's usually not because they intentionally violate the law. It's usually because they aren't used to the speed limit here and just weren't paying attention. Now, you were clocked at 85mph in this 65mph zone. Were you going that fast on purpose or did you think that the speed limit was 85?*

Suspect: *I...thought it was 85....it's 85 where I come from.*

Officer: *Where's that?*

Suspect: *Where's what?*

Officer: *Where do you come from?*

Suspect: *San Diego is where I live.*

Officer: *Okay, I'm going to have to write you a speeding ticket, but I'll make sure I write on it that you weren't speeding on purpose, you just thought that the speed limit was 85mph like in San Diego, California. Right?*

Suspect: *Oh, Ok.*

The officer returns with the citation, explains it and gives the suspect back his driver's license, registration, proof of insurance and a copy of the citation.

Officer: *Before you go, I forgot to ask you, why are you going to Salt Lake?*

Suspect: *I have a job interview.*

Officer: *What kind of work do you do?*

Suspect: *I'm a house painter, carpenter, all sorts of stuff.*

Officer: *Jobs better in Salt Lake than in San Diego?*

Suspect: *Supposed to be.*

Officer: *Where are you applying? I know some people in Salt Lake, might be able to hook you up with something.*

Suspect: *I don't actually have an appointment...I just thought I'd check out the want-ads when I got there.*

Officer: *Oh, so you're gonna be there for a while?*

Suspect: *About a week or so.*

Officer: *I notice that you don't have any luggage. Why not?*

Suspect: *Uh.....I guess I, uh.....*

Officer: *Let me ask you something. Do you condone people who steal stuff?*

Suspect: *Of course not.*

Officer: *I knew you didn't. I'd like to be able to satisfy myself completely that you wouldn't steal anything. I'd like to quickly look through your car. That way I'd be able to tell everyone working this stretch of the highway with me that you're definitely not a thief. Mind you, I don't think you are, but I'd like to say 100% to everyone else that you're not. You're not a thief, are ya?*

Suspect: *Hell no*

Officer: *Good, then you don't mind me looking through your car real quick, do ya?*

Suspect: *No, go ahead.*

The officer called for a cover officer who watched the suspect while he conducted the search.

The primary officer found 6 pounds of marijuana and a pound of methamphetamine behind the driver's bench type seat in the truck.

The cover officer later stated that before the primary officer even pulled back the seat, the suspect said "Shit, you guys got me", turned around and put his hands behind his back.

When I received this tape in the mail, the primary officer telephoned and excitedly told me that he had used the interview techniques I had taught him at the Basic Academy a few years earlier.

He went on to say that he had identified the truck driver as being a suspect due to the following reasons:

- 1. The driver didn't match the registered owner of the vehicle.**
- 2. He looked tired and had evidence of food wrappers all over the truck.**
- 3. He admitted driving straight through from Stockton to Salt Lake City (about a 16 hour trip)**
- 4. He didn't know where the registered owner lived or her phone number.**
- 5. He didn't know what town she actually lived in (he bought the "bait" question about her living in a nearby outskirt town of Stockton).**
- 6. He admitted that it wasn't even the owner that gave the truck to him anyway, it was the boyfriend, whom he also didn't know very well.**
- 7. He readily bought the irrelevant question about whether he had stolen property in the truck.**
- 8. He stated that he was driving to a distant city for a job interview, without even having applied for the job. In fact, he didn't even know of a specific job opening.**
- 9. He said that he was staying for about a week, yet he didn't have any luggage. He would have had to wear the same clothes for his "job interview."**
- 10. The officer forced him (psychologically) to admit that he was speeding, by contrasting it**

against "willful" speeding. This completely validates the traffic stop.

11. The suspect lied about the 85-mph speed limit in San Diego, California.
12. By offering a morally repugnant act as a contrast (stealing and transporting stolen property) he got the suspect to say that he was against this type of crime.
13. The suspect then gave consent to search the truck, to prove that he wouldn't steal anything.

The officer prepared this consent in textbook fashion.

He received confirmation of the offense for which the suspect was initially stopped (speeding); he developed a great number of inconsistencies in the suspect's statements; he elicited information that the suspect was driving someone else's truck across four states (California, Nevada, Idaho and Utah) without even knowing that person's name; he noted that the suspect had no luggage for a week's stay and he received consent to search the vehicle.

The Officer felt (and I agreed) that he set up the conversation so that, if he had not received consent to search, he had enough reasonable suspicion that would have allowed him to detain the suspect and present the case to a judge for a search warrant.

DOMESTIC VIOLENCE

We are aware that domestic violence calls present the responding officer with a very complex situation, along with the potential for violence against the officer.

Coupled with this potential for violence is the possibility of repeat calls to the same address, which psychologically tends to make the responding officers less alert and more complacent.

Further complicating the situation is the fact that some people will falsely accuse others of domestic violence, simply to achieve an undefined goal (child custody issues, vengeance, etc.).

It is therefore critical that responding officers glean all possible information on scene.

Generally, the following things may be of importance when investigating a domestic violence situation:

- **Signs of physical trauma to parties**
-
- **Signs of disarray in the residence, consistent with an altercation.**
-
- **Evidence or statements of prior incidents of abuse.**
-
- **Capability of violence (attitude, demeanor, physical attributes, etc.)**

Domestic violence is perplexing to responding officers for a variety of reasons.

First of all is the general disbelief that one married partner would strike another. We simply have a hard

time accepting this allegation.

Second, if long-standing abuse is afoot, law enforcement officers have a hard time understanding why the victim domestic partner remains in the relationship.

When coupled together, these beliefs sometimes are conveyed to the involved parties as indifference or suspicion on the part of the officer.

This may be interpreted on the part of the victim as a lack of caring and he/she may decline to cooperate with the officers.

The cycle may thus be endlessly perpetuated. We must take extreme care to be vigilant, probing, questioning and sensitive when responding to, and investigating, domestic violence cases.

Questioning involved parties in a domestic violence call requires a delicate touch.

If the responding officers simply ask " **Did you hit her (him)?**" The answer is likely to be " **No.**"

By applying the principles of the Focused Interviewing system, we can be more effective in our on-scene questioning.

For illustration, let's assume for the purposes of this example that the following elements are necessary for prosecution (amend this to fit your local conditions):

- Physical force, or a realistic threat of some type.
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- The force or threat had to be between members of a common household.
-
- The force or threat had to result in some trauma.

Now, let's take that knowledge, coupled with any on-scene observations we made and craft the following questioning sequence.

In our example, the man has been accused of hitting his wife with his fists.

Officer: *Good evening, may I talk to you about what happened? Please, in your own words, tell me what happened here tonight.*

Male : *Nothing happened here, nothing at all. We were just yelling (you observe that he is standing with his fists clenching and unclenching). She was just bitchin' about bills. For someone who can't get off her fat butt and work, she sure has a lot to say about money.*

Officer: *What kind of neighborhood is this? My kid is thinking about renting a house around here. Is it quiet? How about crime?*

Male: *What? Oh, yeah, I guess it's a good neighborhood. Mostly quiet (calming down somewhat).*

Officer: *Good! Let me ask you a couple of quick questions and we'll get out of your hair in short order. Now (getting the suspect aside), we basically have two types of situations we deal with every day between men and women. In one situation, people are human and they occasionally argue. I can't even tell you the number of times men and women argue about money and bills, it happens all the time.*

Male: *It does?*

Officer: *Oh yeah. In some cases, the guy's out there bustin' his hump all day, only to come home to the wife getting on him because they're out of money. Happens all the time...*

Male: *Look, I know I got kinda out-of-hand, but everything's cool.*

Officer: *We also get two kinds of arguments between men and women. Sometimes that argument is a real "give and take" and some minor force is used by either or both parties. Now, the other situation is something else entirely. In those other situations, someone is living with a real psycho, someone who enjoys beating the heck out of people, sometimes even with a club or some type of weapon. We go to those places night after night and find broken bones, smashed noses, hair torn out and a lot of ugly things. I have made a preliminary assessment of both you and the situation here and I can see that you aren't some psycho, are you?*

Male: *No, of course not. But I....*

Officer: (Interrupting) *No, I thought not, you don't give me that impression at all. In fact, this impresses me as a situation where two ordinary people just got into an argument and things got out of hand. Now, my most major concern is that I want you two to cool off and not hit each other after I leave here.*

Male: *We won't.....*

Officer: *What I want to know is this, now tell me the truth, do you hit her all the time or was this just a one-time deal where you momentarily lost control because she was "on you" about money? Because if this is an "all-the-time" occurrence, I need to take every action under the law that I can, but if this was just a simple one-time mistake, the system will handle that very differently. I'm I right when I*

think that this was just a one-time deal?

Male: *Yes. But I.....*

Officer: *(Interrupting) That's what I thought. I thought you were basically a good, hard-working guy that just made a simple mistake. For instance, you look like a real strong guy. I can tell that if you really intended to hit your wife hard, you'd have knocked her clean out. So, I'm thinking that you probably just smacked her a little to teach her a lesson. Is that what happened? Or were you intending to knock her block off?*

Male: *No, that's exactly what happened. The bitch wouldn't shut up, so I just smacked her once to get her attention.*

Officer: *Okay, now it's real important that we get your side of the story down here, because Lord only knows what she's saying to my partner. I don't want you to look like a real bad guy here. Why don't we take the time and write down your side of the story, so that no one can say later that anything else happened, OK? Make sure you say in the statement all the things we talked about here, like you don't hit her all the time, that you just hit her that one time to get her attention and stuff that you told me which would get your side of it on record. OK?*

Male: *OK.*

Officer: *First of all, you do have the actual legal right to make a statement, don't you? I mean, you do actually live here with her, don't ya? She is your legal wife?*

Male: *Damn right. We've been married for 5 years. We moved here 6 months ago. I pay the rent, every damn penny of it. No one's gonna say I don't have the right to make out a statement about what happened here.*

Let's analyze what we've done here and see how this correlates with the principles we've previously discussed in the Focused Interviewing system.

First, we recognized that the suspect's anger at us was because he recognized that we presented a threat to him (*psychological set*).

We also realized that the suspect's initial reaction to that threat was a **Fight Response.**

We also gave him the opportunity to give us a narrative, but he chose not to give us much, probably because he was angry.

We did notice that he stated that the fight was about money.

We diffused the suspect's initial anger by asking him some irrelevant, non-threatening questions about his neighborhood.

We calmed him somewhat by telling him that men and women fight all the time about money.

Next, we established that an actual argument has been previously taking place, between the male suspect and the female resident.

We established this with an offhand reference to the suspect about the violence and receiving his acknowledgment.

We made reference to the difference we place on a suspect just losing control a single time, versus someone who "beats people all the time."

Then, we established that he struck the female once versus an "all the time thing."

After that, we established that he struck the female with his fists.

We accomplished gaining this admission by contrasting striking someone with a fist versus striking someone with a club or weapon and being a "psycho", thereby allowing the suspect to rationalize his behavior against a more egregious act.

In short, he felt better about his self, by feeling like he was somehow better than a person who beats someone else with a club or weapon.

Next, we established that he hit the female not in self-defense, but hit her to "get her attention."

We accomplished this by complimenting the suspect and his apparent ability to really "knock her block off" and contrasting this behavior against just teaching someone a lesson.

When the suspect admitted hitting his wife just to "get her attention", do we think that this will be a viable defense in a court of law?

If anything, a prosecutor, judge or jury would be more outraged by this statement, than if the suspect admitted a mutual combat situation.

However, by utilizing some basic psychological principles, we have allowed the suspect to rationalize his behavior and admit striking his wife.

Last, we established that the suspect cohabitates with the woman, who is his wife, by challenging his ability to be able to make a statement.

The suspect indignantly pointed out that he is "qualified" to make a written statement because he and his wife have lived at the residence for 6 months, they have been married for 5 years and he pays the rent.

When we review the elements of the crime for which we responded, we can see that, by employing some psychological principles in the on-scene interview, we can change the suspect's initial focus and diffuse his anger, while allowing the suspect to "save face" yet still admit culpability.

It is important to realize that in the above scenario, all of the incriminating statements were obtained from the suspect.

The case will obviously be more complete with the addition of any statements and/or evidence from the female victim.

BIBLIOGRAPHY

and

SUGGESTED READINGS

I highly recommend the following texts. They are without doubt the best books ever written concerning the formal interrogation of suspects and forensic psychophysiology.

Gelb, Edward I., PhD., A PRACTICAL GUIDE TO THE INTERROGATION OF CRIMINAL SUSPECTS, 1997, Los Angeles, California, ISBN 0-9659479-0-4.

Matte, James A., FORENSIC PSYCHOPHYSIOLOGY USING THE POLYGRAPH, 1996, Williamsville, N.Y., ISBN 0-9655794-0-9.

ABOUT THE AUTHOR

Detective Chip Morgan interviews people for a living. As a law enforcement polygraph examiner, Detective Morgan utilizes all of his skills in an effort to arrive at the truth.

Chip has long felt an obligation to pass on knowledge to others and has been an instructor for more than 20 years.

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Updates to the above material and instruction media may be obtained by visiting our website, located at -

<http://www.focusedinterview.com>

