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All law enforcement basic preparatory training courses that begin on or after May 1st, 2012 must incorporate this updated textbook and any related updates to the curriculum. Courses beginning before that date may elect to use these updated materials.
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INTERVIEW AND INTERROGATION

INTRODUCTION

Interviewing victims, witnesses and suspects is an integral part of a law enforcement officer’s duties. Whether taking a report on a missing person, writing out a statement from a witness to a vehicle crash or investigating a homicide, officers must talk to people in a manner designed to elicit useful information. Because of this, law enforcement officers need to learn effective interview and interrogation skills.

Interviews are typically conducted with victims and witnesses. Their goal is to find out as much relevant information as possible while also putting the victim or witness at ease. They tend to be friendly, loosely structured, and non-confrontational. Different types of interviews include receiving a general complaint; receiving a victim report; taking a witness report; and conducting investigative witness interviews. Modified procedures are used to interview children and other vulnerable victims. The focus of these interviews is to get the person to tell you what happened.

Interrogations, on the other hand, are conducted with suspects. The goal of an interrogation (assuming the suspect is actually guilty) is to establish the suspect’s guilt in a court-presentable way. They are controlled and directed (the officer asks questions), and may involve the suspect(s) being at a psychological disadvantage. Interrogations are accusatory in nature and you must advise the suspect of certain legal rights before proceeding with an interrogation if the suspect is in custody. However, you should remember both interviews and interrogations are a search for the truth and neither should be an explicitly guilt-presumptive process.

This course provides some basic guidelines for conducting interviews and interrogations, including requirements for electronic recording of interrogations of persons in custody.

Characteristics of a Good Interviewer

Good interviewers share some common characteristics. These include:

Inquisitive – Simply put, most good interviewers want to know what’s going on, have their suspicions raised easily, and are nosy.

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**Observant** – Successful interviewing means thinking on your feet, while observing your surroundings and constantly observing the subject being interviewed.

**Energetic** – No one makes interviewers put forth the effort to get that confession, it is something that comes from within.

**Ability** – Good interviewers can talk with people and put them at ease, while eliciting useful information.

**Problem Solver** – Interviewers must look at the big picture to succeed in obtaining incriminating admissions from a suspect.

**Patient** – Law enforcement officers often damage the memory retrieval process by hurrying witnesses, interrupting, using inappropriate sequencing of questions and stopping the statement process too soon.

Interviewing is a learned skill that improves with practice. At first, you may feel awkward and self-conscious, and you may forget to ask (or do not think to ask) questions that you later wish you had. As you talk to more people, you will become a better interviewer/interrogator—and will thus be able to get more useful information.
INTERVIEWS OF VICTIMS AND WITNESSES

As important as the collection of physical evidence from a crime scene, interviews with victims and witnesses can be crucial to the successful solving of a crime and prosecution of the offender. Victims/witnesses are usually perceived to provide the central leads in criminal investigations. Investigators frequently have little (or no) forensically relevant information to guide their investigation. Therefore, the primary source of information and evidence for an investigator is usually victims and witnesses. As a result, information gained from the interview of victims and witnesses often forms the cornerstone of an investigation.2

The interview process begins as soon as you arrive at the scene of a crime. One of your first duties is to locate the victim(s) and witness(es) and to ask for information about the crime (or possible crime) that has taken place. Victim(s)/witnesses also have a duty to identify themselves and to assist the police by providing information about what they know about a crime.3 Your goal is to obtain enough preliminary information to determine the nature of the incident, and descriptions and possible identification of any suspects. Immediately broadcast that information to other assisting officers, dispatch, and any command post that may be established.

Once you identify victim(s)/witnesses, you must keep them separate to prevent them from exchanging their versions of what happened. The following example demonstrates how failure to separate witnesses could mislead an investigation:

Example:

Two witnesses observed a batter suspect fleeing from the scene. In fact, the suspect is clean-shaven. Witness A incorrectly describes him as having a beard. Witness B (who thought he was clean-shaven) overhears this, and begins to doubt his own recollection. Because he thinks he must have been wrong, Witness B also tells officers that the suspect wore a beard. Officers now waste time searching for a bearded suspect – and may overlook the real perpetrator.

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Whenever possible, compare the statements of different victim(s)/witnesses and check to see if physical evidence at the scene can corroborate victim(s)/witness information.

Your skill as a professional communicator will be a pivotal tool at this stage. The information that the victim(s) and witness(es) supply to you, the first responding officer, is often the single most important factor in whether a case is solved. Sometimes the perpetrator can be readily identified from information given by the victim or witnesses, or from the physical evidence at the scene. In any case, the preliminary investigation at the scene also forms a sound basis for the accurate collection of information and evidence during the follow-up investigation.

Often the way in which you interview a victim/witness has a direct impact on how much information you get and how accurate it is.

**SEQUENCE OF A VICTIM/WITNESS INTERVIEW**

The following section illustrates how the general interview steps apply to interviewing cooperative victims and witnesses.

![Interview Sequence Diagram]

**Preparation and Planning**

Few people have enough interviewing practice to be able to carry out a first class interview without putting time into preparing for it. The first step to an effective interview is preparation. Without this, many interviews fail before they even begin. *Planning* is the mental process of getting ready to interview and *preparation* is considering what needs to be made ready prior to the interview including such things as the location, the environment and the administration.

You may not always have a lot of time to prepare for an interview (for example, on the scene of a crime you may interview victims and witnesses right at the scene), however, you should still gather your thoughts before speaking with a

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victim or witness and have a good idea of what information you will try or need to gather from that person.

Prior to conducting interviews, ensure you are aware of your agency policy and guidelines in regards to interviewing, providing information to, and making contact with victims and witnesses. If time permits, locate all information, details and actions to date that are relevant to the case. This will help you determine what information you need to gather during the interview.

Depending on the victim or witnesses’ status at the time of the interview, you may need to consider providing support for the person (for example, if interviewing a domestic violence victim, the victim may need medical care or information on a local shelter, etc.). Having an advocate show up on the scene to support the victim may be helpful. Another situation when you may need support is if you need a translator during the interview. Identify the needs of the victim or witness you will be interviewing and take whatever steps are necessary to help the person so you can interview him or her effectively.

Another factor to consider in the planning and preparation phase includes the interview format. Will the interview be recorded? Where will the interview take place and in some instances, will the interview need to be spread over more than one session?

**The Interview Environment.** A number of factors can contribute to a less-than-successful interview. Background noises and curious onlookers can detract from your ability to conduct an interview. For example, you should not interview an individual on a noisy and busy city street with multiple onlookers. You must be wary of prematurely interpreting an individual’s behavior as disinterested, unwilling to cooperate, or even deceptive when conducting an interview in an environment that contains distractions. For example, if an individual breaks eye contact after you ask a question, you may prematurely conclude that the subject is being deceptive. Instead, the individual could merely be distracted by a passing vehicle or someone casually walking by. Selecting a quiet place, free of distractions and without any physical barriers between you and the individual is critical.

**Engage and Explain**

This opening phase is crucial to the success of the interview. You must be aware that being interviewed by law enforcement can be a nerve-wracking experience for most people and that a “warm up” period is needed to help settle the person down. This “engage and explain” stage is also known as

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“establishing rapport.” It is the most influential factor in ensuring the success of an interview.

During this phase you want to accomplish the following:

- Introduce yourself properly to help overcome any stereotypical views the victim/witness might have about law enforcement or interviews with law enforcement.
- Encourage the victim/witness to take an active role in recalling information rather than responding only to your questions.
- Set the tone for the forthcoming interview, ensuring that the victim’s/witness’s concerns about the time it will take, any potential future court appearance, intimidation from suspects, and so on are dealt with early on.
- Take time to explain what is going to happen and what you need from the victim/witness during the interview.

To accomplish the goals in this phase you need to:

- Minimize the victim’s/witness’s anxiety and establish and maintain rapport.
- Convey that the victim’s/witness’s information is important.
- Address the victim/witness by name.
- Explain the interview process and express your expectations of the victim/witness during the interview.

Minimize the victim’s/witness’s anxiety and establish and maintain rapport. The structure of the interview is first designed to calm the victim/witness and gain his or her trust. You want to set the right impression and atmosphere from the start. You can accomplish this by:

- Introducing yourself; shake hands if appropriate.
- Speak calmly and slowly.
- Keep your language simple and do not use jargon or ambiguous language.
- Ask how the victim/witness wants to be referred to (name, title and name, etc.)
- Use the person’s name occasionally throughout the interview.
- Find out if the victim or witness has any needs or concerns and take steps to address them. (Do they need to use the restroom, do they want a glass

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of water or a cup of coffee, check to see if they smoke; they may need a
break to smoke from time to time).
• Give reassurance to the person if he or she seems nervous of the
process.

Anxiety for the victim/witness is natural. Before getting into specific questions
about the crime, try to establish a relationship with the witness or victim. Show
concern for the person—after all, the person may well have just been through (or
observed) a situation that left them frightened, upset, or even traumatized.
Developing rapport will make the victim/witness more comfortable during the
interview process.

Ask, “How are you doing?” A little time spent in preliminary rapport building will
go a long way to ensure cooperation. It can also alert you to any physical or
mental condition (e.g., intoxication, medication and shock) that may impair the
person’s ability to recall or report information effectively. Avoid judgmental
comments; instead, try to establish some common ground. The victim/witness
will feel more comfortable and be more likely to trust you.

Treat the victim/witness as an individual and not as a statistic. This can be
accomplished by avoiding pre-memorized questions that sound programmed or
artificial (i.e. “Is there anything you can tell me that would further assist in this
investigation?”) and referring to the victim/witness by his/her name.

Convey that the victim’s/witness’s information is important. People will be
more likely to be forthcoming with information if they feel valued. If you convey,
by your words, tone of voice, and body language, that a victim’s/witness’s
information is important and valuable to the investigation, the person is more
likely to want to talk to you. By contrast, if you appear bored, disbelieving, or
dismissive, the person is likely to clam up.

Encourage the victim/witness to actively and voluntarily report what he or she
knows, even if it seems trivial. Sometimes the victim/witness may withhold
relevant information because he/she thinks it is unimportant or out of order.
Emphasize that all of the person’s information is important to your investigation.
You did not witness the crime – you need the victim/witness to give you the vital
details that can help solve the case.

Tell the person that what he or she has to say is important and he or she should
report everything they can and try their hardest not to leave anything out. Tell
the person not to edit as they go, even if they believe some information has no
relevance to the matter being investigated. Let the person know he or she
should feel free to speak to you (ask questions when he or she does not
understand) and clarify that once he or she has given their account you will be
asking questions to clarify what they said. Take your time and be patient as you
interview the victim/witness.
Address the victim/witness by name. Always use a victim’s/witness’s name when speaking to him or her. With elderly victims/witnesses, or people who have titles for their profession, you might want to use Mr./Mrs./Ms./Dr. etc. as a sign of respect. Avoid referring to the individual as a “victim/witness.” That term intimidates some people—they may think it means they’ll have to give testimony in court—and it can put up unnecessary barriers to gathering information from them.

As you talk to people at the scene, pay attention to their appearance, demeanor, and behavior (emotional state and body language), as well as their words. Document your observations and record their comments as quotations or paraphrased statements whenever possible. The importance of the victim's/witness's initial comments and their accompanying emotional state may not be assessed until much later in the investigation. Therefore, your careful documentation may prove critical. It is permissible, and sometimes desirable, to electronically record a victim/witness statement.

The interview should continue with general instructions provided by you.

After making the victim/witness comfortable by addressing all of their concerns and needs and after explaining how the interview will be conducted, inform the victim/witness that you are now starting the main part of the interview. State your expectations of the person during the interview. This is important because victim(s)/witnesses may not know what to expect or may have incorrect expectations of their role in the interview. You should state explicitly that the victim/witness is expected to volunteer information.

Remind the individual that you’ll be taking notes to help you keep track of what’s being said. Then, ask the victim/witness to tell you, in his or her own words, what happened. Tell him or her that after he or she explains what happened, you may have some follow up questions for him or her and may ask them to repeat all or part of the story if you need clarification. Finally, you will verbally summarize what was said at regular intervals to check for correct interpretation.

Account Clarification and Challenge

This stage is where you obtain an individual's full account of events. The main steps are:

- Obtaining the person’s own uninterrupted account.
- Expanding and clarifying their account.

Questioning skills are essential for the end account to be both accurate and reliable.
**Narrative Account**

Let the victim/witness describe what happened in his or her own words and at his or her own pace with no interruptions. The goal is to ask as few questions as possible so that the victim/witness gives you long narrative responses that contain more information than you would get by asking questions. The object is to try to elicit information, not extract information. During this first account, listen to what the person is saying – do not take notes at first, just listen (if time permits).

Ask the victim/witness to mentally recreate the circumstances of the incident. Your goal is to have the victim/witness provide as full an account as possible of what happened. You want them to “paint a picture” for you during the interview so you better understand exactly what happened. Some victims/witnesses (for example children and people with intellectual disabilities) may be under the impression that you already know what happened. If this is the case, their role, in their mind, is merely to confirm what you suggest. Therefore, wait to ask them questions until every effort has been made to obtain free recall in their own words.7

After the individual tells his or her story, you may decide to ask the victim/witness to go through the events again. Explain that when they tell the story again, they should add anything else they remember and that this time you may be taking a few more notes. You could ask them to recall the events in a variety of chronological sequences (i.e. beginning to end, reverse order, forward or backwards from a particular point, etc.). You could also ask the victim/witness to consider the event from a different perspective (i.e. from the point of view from someone else present at the scene). You could also help the victim/witness remember details by asking him or her to focus his or her mind on the context surrounding the incident (i.e. features of the physical environment, his or her thoughts and feelings at that time, etc.).

Each recall will provide you with more information. Go through the account as many times as deemed necessary, checking and clarifying as you go, until you are satisfied that you have as much information as the victim/witness can provide.

You should also summarize what the victim/witness says throughout the interview to ensure your understanding of the event is correct. However, do not

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overdo the summarizing or it may seem that you do not believe what he or she is saying.\(^8\)

During the individual’s narrative account (free recall of the event):

- Do not interrupt
- Allow pauses
- Use Active Listening

**Do not interrupt.** Sometimes officers are so focused on getting the information they think they need that they constantly interrupt a victim/witness and try to focus the person back on the officer’s agenda. While it is important that you get all the necessary information, the first time through, let the victim/witness tell the story as he or she recalls it and using his or her own words. Interrupting the victim/witness during his or her answer discourages the witness from playing an active role and disrupts his or her memory. Rather than interrupt, you should make a note and ask questions afterward to clarify points or to probe for more detail. Sometimes when it seems that the witness is going off on a tangent, he or she may be getting to a crucial detail—one you wouldn’t have gotten if you hadn’t let the person talk.

**Allow pauses.** It is important to allow for pauses after the victim/witness stops speaking and before continuing with his or her free recall or before you move to the next question. These periods of silence allow the witness to collect his or her thoughts and continue responding, thereby providing a greater amount of information.

**Use active listening skills.** In *Professional Communication Skills*, you learned how to be an active listener. As you will recall, active listening involves three skills—attending, following, and responding. Some of the techniques involved include: maintaining eye contact; leaning forward to show you are interested in what the person is saying; paraphrasing the person’s words to ensure that you understood properly; and using open-ended questions to encourage the person to keep talking. All of these can be useful in interviewing.

**Questions**

After the victim/witness provides a narrative (free recall of the event) you may need to follow up with relevant, probing questions. (Note: Ideally, information should be gathered using primarily open-ended questions. More specific, closed-ended questions should be used only when the witness fails to provide a clear or complete response.) When asking questions, allow the victim/witness time to understand each question, think about it, formulate his or her answer and deliver it.

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Use Open-Ended Questions. You must be able to ask open-ended questions and have a strategy (or game plan) to your questioning that retrieves all relevant information from the victim/witness. Since different strategies work with different individuals, your communication skills will be especially important at this stage.

As you recall from the Professional Communications class, appropriate listening skills and open-ended questions will elicit more information from the person you are contacting. You will be able to put them at ease and develop a relationship that may encourage future contact. Unless the witness is timid, anxious, uncooperative, or hostile, avoid questions that invite only a yes or no answer. Your goal is to get the person to talk freely and completely about the incident. If you ask yes-or-no questions, the only information you get will be answers to questions you thought to ask.

Open-ended questions allow for unlimited responses in the victim/witness’s own words. Examples of open-ended questions include:

- “Tell me in your own words what happened.”
- “What can you tell me about what happened?”
- “What can you tell me about who did this?”
- “What can you tell about the car?”
- “Is there anything you would like to add?”

Because close-ended (direct) questions limit the amount of information the victim/witness can provide, use them to focus on a particular piece of information the witness introduced. For example, if the victim/witness describes a vehicle as “suspicious”, you should ask “What do you mean by ‘suspicious’?”

Leading questions (those that suggest an answer) may influence the victim’s/witness’s perception or memory, thereby possibly distorting the information provided. (This is especially a problem with younger children, as you will learn in the Child Maltreatment course.)

You should attempt to put a time frame around the event. Ask questions like:

- “What were you doing right before [the event]?”
- “When did you last see the victim?”
- “How do you know what time it was?”

Do not ask the victim/witness if he or she would be willing to testify in court. Asking that question may be intimidating—making the individual reluctant to respond to your questions. If a victim/witness is needed in court, that person will be subpoenaed later.

Do not expect the victim/witness to have observed the amount of detail required. The victim/witness may have a very good memory of the incident but does not have the observation skills as that of trained law enforcement. Or the
victim/witness fails to communicate the information effectively. Nevertheless, the information is valuable if it corroborates the physical or circumstantial evidence collected. Corroboration will assist in reconstructing the events around the incident both for follow-up investigation and for supporting the prosecution of the suspect. Conversely, reconstructing the incident can also be important to verify the truthfulness of the victim/witness information.

Remember also, that multiple witnesses who have viewed or experienced the same event will never recall the event the same way. Descriptions of people, time, sequence of events, and the ability to remember all the details vary with each person interviewed. The person may be traumatized by the event and only be able to provide fragmented information.

Other factors that may influence a victim’s/witness’s ability to provide an accurate accounting of the incident include these:

- What significance the event has to the victim/witness (impact).
- The length of time the observation took place.
- Less-than-ideal conditions to interview a victim/witness.
- The victim/witness’s physical condition (fatigue, fever, intoxication, etc.).
- Any language barriers which may be present which hinder the interview.
- Prior discussions of the event between the victim/witnesses.

The first questions you ask a victim or witness should clarify who they are and how they are related to the incident. These questions will help to establish their credibility and their value to the prosecution. Here are seven basic questions:

- Who are you? (Name, home address and phone number, business address and phone number, occupation, and date of birth)
- What happened? (knowledge of the event)
- Where did it happen? (location of the event)
- When did it happen? (date and time)
- Why did it happen? (motive)
- How did it happen? (modus operandi)
- How much was involved (money, drugs, etc.)

A checklist or “cheat sheet” of these six basic question areas included in your notebook may assist you during your first months as an officer.

The credibility and reliability of victims/witnesses is a factor in weighing the information each of them provides. Consider these factors in evaluating the witness statement:

- Who is the witness?
- What is their relationship to the offender/victim?
- Is the witness cooperative, hostile, or reluctant?
- Does the witness have any reason to lie?
Additionally, you should also document any of the following:

- Was the victim/witness conscious at the time the crime was committed?
- Under the influence of alcohol or drugs?
- What was the exact location that made the victim/witness’s observations possible?
- What was the witness doing at the time of the crime?
- Was the witness in transit?
- Were there distractions at the time of the crime that might have affected recall?
- Any possible bias, impairments, or history of being untruthful?

**Important Investigative Questions**

During the interview, it may be necessary to introduce information that is important to the investigation but has not already been mentioned by the interviewee. These questions should be asked after the interviewee provided his or her account of what happened. This should be done after the account was provided because:

- The interviewee has to be first given every opportunity to provide whatever information they think they have, and

- These questions are likely to be leading to some extent (the questions contain information that the interviewee may or may not already have).

It is generally agreed that the type of questioning employed in an investigative interview, particularly the account stage of the interview, is vital to the investigation. Thus, you, as the interviewer, must have a good understanding of:

- The basic rules of questioning.
- The types of questions that are useful in an interview and when to use them.
- The management of the information received from questioning.
- The questions which are unsuitable for interviews.

**Basic Rules of Questioning:**

| Vocabulary       | The language used should be simple, unambiguous and jargon-free so all parties understand what is meant. |

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Relevance  Each question must have a purpose and not be used to fill time. A well-prepared interview plan accompanied by listening carefully to everything that is said should eliminate repetitive questioning.

Pace  The interviewee must be allowed time to understand the question, think what knowledge they have of the matter, formulate their answer and deliver it.

Interruptions  You must learn to curb any tendency to interrupt the interviewee because this will break the person’s train of thought and stop the flow of information, potentially preventing important facts from emerging.

Control  If the interviewee strays from the point, direct him or her back firmly and tactfully. For example say, “That’s interesting, but before you continue, can you tell me what happened when you first saw the person acting suspiciously in the street?”

Types of Questions

Interviews typically include many different types of questions. Some are described below:

*Open-ended questions*

Open-ended questions are encouraged as these encourage people to give longer answers, which result in more information. They also allow you to gauge the person’s intellectually ability, which in turn, may dictate how the interview should progress as well as indicate any support that may be necessary. Some examples of how to start an open question include:

- Tell me…
- I’d like you to explain…
- Can you describe…

*Probing questions*

Probing questions are those that start with what, where, when, why, who, how, and how much because these usually invite an explanation instead of a single word answer. For children or venerable witnesses you may want to use the words “how come” instead of “why” because it seems less accusatory. This approach may also be more sensible with many adults too.
**Productive/Non-Productive Questions**

Apart from open questions and probing questions, investigative interviews can be divided into good and poor questions. Good (or productive) types of questions include the following characteristics:

- Open
- Probing
- Echo probing
- Closed – appropriate
- Clarifying
- Reinforcing
- Summarizing
- Repetitive – appropriate
- Linking
- Parameter setting – appropriate
- Neutral / Non-judgmental
- Reflective
- Trailer
- Short/concise
- Logical
- Singular (one question or one point at a time)

Using productive questions will produce the required information. In contrast, poor, risky or counter-productive question types include the following characteristics:

- Leading (assumes or suggests the answer)
- Closed – inappropriate
- Multiple
- Misleading / inaccurate
- Hypothetical
- Non-neutral / judgmental
- Negative (i.e. “you don’t know his name do you?”)
- Double negatives (i.e. “you don’t know that he was not there do you?”)
- Complex
- Too long
- Force choice (“Was it A or was it B?”)
- Multiple concepts (“What did they look like?”)
- Accusatory
- Assumptive (based on what the interviewer thinks)
- Repetitive – inappropriate
- Parameter setting – inappropriate
- Sarcastic / ironic
• Sub questions (hooked on to the main question)
• Tag question (“you did see the gun, didn’t you?)

Closure

Do not rush the closure of an interview. This stage needs to be just as complete and effective as any other. Before you close the interview, review your notes and other materials to see if you missed anything. The aim of the closure should be to:

• Ensure there is mutual understanding about what has taken place (by reviewing and summarizing the account).

• Verify that all aspects have been sufficiently covered (by checking that the individual has given all the information they are able or willing to provide). Ask the victim/witness “Is there anything else I should have asked you?”

• Explain what will happen in the future (by giving the person appropriate information on the next stages of the process).

• Facilitate a positive attitude towards providing accurate and reliable information in the future; leaving lines of communication open between you and the victim/witness.

Review your notes and other materials. Review your notes to ensure you asked all of the questions you needed answers to and also double check that you understand what the victim/witness told and check that what you wrote down in your notes matches what the victim/witness said before closing the interview.

Ask the victim/witness “Is there anything else I should have asked you?” Before closing the interview your final question should resemble this question. What you are trying to do by asking a question of this nature is open it up for the victim/witness to tell you anything else they feel they should tell you. Your line of questioning may not have allowed the victim/witness to tell you everything they think they should.

Close the interview. Once the questioning phase has been completed, a final important phase remains. This closure phase has three main aims. The first involves you checking that you correctly understood the victim/witness. Ensure that the victim/witness is satisfied that the statement/summary has captured what happened.

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The second aim is to ensure that the victim/witness leaves the interview in as positive a frame of mind as possible (which may involve going back to some of the neutral topics discussed in the “rapport” phase). Explain to the victim/witness what is going to happen now and provide any information/advice they may need.

The third aim is to try to ensure that if the victim/witness has more to say, he/she feels they can share more information with you. Psychological research and professional experience confirm that victims/witnesses often are unable to remember everything in one interview.

When you feel you have all the information the victim/witness has to offer wrap up the interview with a few instructions and reminders. Encourage the victim/witness to contact you if additional information is recalled and ensure they have your contact information. Instruct the witness to avoid discussing details of the incident with other potential witnesses. Encourage the witness to avoid contact with the media or exposure to media accounts concerning the incident and finally, thank the victim/witness for his/her cooperation.

**Evaluation**

After you close the interview:

- Examine whether the aims and objectives for the interview were achieved.
- Review the investigation in light of the information obtained during the interview.
- Reflect upon how well you conducted the interview and consider what improvements could be made in the future.

**SUMMARY**

To review, the goal of the preliminary investigation at the scene, including interviews, is to find out what happened, and to determine who and where the victim(s), witnesses, and suspect(s) are. This preliminary information about the incident and any suspect information (including vehicle information) should be broadcast from the scene to dispatch and any listening units.

Interviewing at the crime scene includes identifying all victim(s)/witnesses at the scene and discovering exactly how much they know about the incident. This is the broadest fact-finding portion of the investigation. As the interviewer, you need to make every effort to calm individuals, encourage their cooperation with the investigation, and make them feel as safe and comfortable as possible. Just being in the area where the incident occurred may make a victim or witness uncomfortable. Removing them a short distance or into another environment, if possible, may allow them to speak more freely about their experience.
DOCUMENTING VICTIM OR WITNESS INTERVIEWS

Taking good notes throughout your contact with a victim/witness will help ensure that you ask for all the needed information. However, do not contact individuals with your notebook in hand and immediately start writing down whatever is said. Remember—building rapport is always the first step. With rapport established, ask a question and listen fully to the answer. Ask it again, slightly rephrased, or ask them to repeat the answer more slowly in order to write it down. You want to ensure that you hear a full narrative answer before writing anything down. Then read back the answer and make sure you have got it right. If necessary, make corrections before going on to frame the next question. Remember, your notes help form the basis from which you will write a report, so they should be accurate and complete.

The level of detail in your notes will depend on the severity of the incident and the involvement of the victim/witness. Other methods of documentation may also be used, such as audio or audiovisual (electronic) recordings and statements handwritten by the victim/witness. Audio and audiovisual recordings can help to show the emotional state of the witness and may be more accurate than note-taking. However, the victim/witness may not be as comfortable knowing they are being recorded—covert placement of electronic equipment may mitigate this concern use your agency’s policy as a guide for this purpose. Follow your agency’s written policies as a guide for this purpose. While victim and/or witness interviews do not always need to be electronically recorded, it is good practice, especially in sensitive, high profile or serious cases.

Once the questioning or active interview portion is over, you must decide how to record that information into some written format. Your local DA’s Office can advise you as to what written documents you should prepare and how to prepare them. Written statements by victims and/or witnesses may become evidence if the information they contain leads to the identification of a suspect or leads to other evidence proving the crime. An example of such a written statement is a transcription of a Q & A, or question/answer session. Other types include those written in the victim’s/witness’s own hand. The victim/witness should be asked to initial each page and to sign the written statement, affirming it was given voluntarily. Even if the victim/witness refuses to sign, you should still collect the written statement as evidence. If the statement is used later in court, the victim/witness can authenticate the statement. Your agency policy and procedures may dictate when it is appropriate to memorialize other kinds of statements.
TYPES OF VICTIMS/WITNESSES

Victims/witnesses can be divided into a number of different types. The type of victim/witness you interview affects the strategy of your questioning. Here are some common types:

- Friendly
- Neutral
- Interested
- Hostile
- Child
- Vulnerable
- Traumatized

Friendly. Friendly victims/witnesses are often (but not always) the easiest to interview. They are generally willing to meet with you and give you the time necessary to conduct a thorough interview. They are generally willing to tell you everything they know.

Two dangers with friendly victims/witnesses occur: 1) You may let your guard down and not adequately prepare for the interview; 2) You may have misread the person and for whatever reason, the person is not actually friendly.

Assuming the person is friendly, a good technique to use is a funnel approach. After general introductions, get a narrative from the person that allows him or her to tell you in his or her own words what he or she knows. Try not to interrupt the narrative, taking (mental) notes about issues that you want to clarify later. Assist the narrator by asking open-ended questions, using phrases such as “tell me more about…” or “describe how…”

Only after the person completes his or her story to you follow up with questions that will clarify specific points or seek additional detail. You may ask the person to give you another narrative, but this time from a different perspective (i.e. chronologically if his or her rendition was not chronological or from another witness’s perspective if more than one person was present).

Repeat what the person told you to make sure you understood him or her correctly. Friendly victims/witnesses are excellent sources of leads to additional witnesses and evidence so be sure you ask about those.

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Neutral\textsuperscript{12}. The neutral, indifferent, or disinterested witness is the best kind of witness, because these witnesses have no interest in the success or failure of the case—and therefore have no reason to lie. These witnesses will usually tell you whatever they know about the incident without lies or deceit.

Neutral witnesses are often reluctant to be involved but are not emotionally disposed to be “hostile.” The initial goal with neutral witnesses is to establish rapport and “win them over” so they are at least willing to talk with you. You need to understand what will motivate the witness to get involved.

Neutral witnesses may lack an emotional attachment to the case or people involved. Their willingness to become involved depends on building an emotional attachment to the investigator. Thus, you must use your persuasive talent to make them feel important and liked – to charm them into talking with you.

One successful technique is to assure neutral witnesses that their involvement now will reduce the likelihood of a more intrusive involvement later. This should be done in a friendly manner, not in a belligerent tone. The message should be, “We want to resolve this without further investigation if at all possible, but that requires us knowing what you have to say about the event,” rather than “You can talk to me now or you can talk to me down at the station.”

Neutral witnesses can sometimes be persuaded by a plea to their sense of justice but, more often, they are persuaded by thinking that they have a minimal but powerful role to play. In response to an assertion that “I really didn’t see much,” you may answer, “But the little you did see may be crucial to resolving the case.”

The questioning technique you adopt with a neutral witness will depend on whether or not you are able to move him or her to a friendlier position. If you are successful, you engage in open-ended questioning; if you are not, you ask close-ended questions.

Try to keep the witness talking as long as possible to ensure you have gotten all of the information he or she is capable of providing.

Interested. The interested witness may be a friend or relative of the victim or suspect. Or it could be someone who might possibly benefit from the crime committed and might exaggerate the facts.

Hostile\textsuperscript{13}. A hostile witness will lie, intentionally omit information, and will generally be deceitful due to his or her relationship (relative or close friend) with the suspect(s). If interviewing such a witness is non-productive, interrogating the witness may be a more appropriate option.

However, hostile witnesses are often not as hard to interview as you would anticipate. If you remember that people who feel emotional about an event or person generally want or need to talk, you can use that desire or need to get the person talking. Getting the person to open the door (at least metaphorically) is the most difficult task. Once they have agreed to talk, either explicitly or implicitly, the battle is won.

The interview technique for hostile witnesses is generally the reverse of that with friendly witnesses. Begin with close-ended questions meant to get the person simply responding to your questions, then slowly work on opening up the witness through expressing empathy, affirming what he or she told you, and providing information that he or she wants to know. If you are successful, you can move the interview from close-ended questions to open-ended questions, which will elicit a lot more information.

With a hostile witness, you must have your questions at the tip of your tongue. You want to avoid getting bogged down in a discussion about whether the interview will happen or what the interview is about. Thus, in response to the question, “Why should I talk to you?” you want to say, “I just want to know [a specific fact].” The fact might or might not be of interest to you, but it should definitely be of interest to the witness.

A primary goal with a hostile witness (particularly a victim) is to reduce the hostility so that, by the time the witness testifies in front of a jury, the anger and rage is muted. Often, that means you must allow the victim/witness to rage at you, within reason. It is difficult to empathize with the victim/witness while maintaining your emotional distance but it is an extremely effective technique.

Although hostile witnesses can be tricky to interview, they are often the most rewarding. Your first responsibility with them is to “do no harm.” If you remain friendly and professional, even in the face of verbal abuse, you are likely to be rewarded.

Child. The most vulnerable and volatile witness is the child victim or witness who, due to his or her stage of development or relationship with the victim or suspect, is prone to suggestion. The unique interviewing needs for children will be addressed further in the Child Maltreatment unit.

Vulnerable.\textsuperscript{14} This category of witness has particular difficulties. These include the children, the mentally ill, people with learning disabilities, those with physical and/or communicative disabilities, rape victims and so on. You should accommodate these “vulnerable witnesses” at each stage of your involvement in the process.

There are some special measures that are intended to help vulnerable and intimidated witnesses – both children and adults – to give their “best evidence” in criminal proceedings. These measures include:

- Allowing a video recording to be made of the witness interview and admitted as evidence.
- Separating the witness from the suspect for the interview.

Witnesses should also be eligible for assistance on the grounds of their being “intimidated” (i.e. they are in fear or distress about testifying).

Traumatized Victims\textsuperscript{15} The general interview techniques should be used with traumatized victims; however, you may have to take more time and should be careful not to increase the victim’s anxiety or fear. You should not take on the role as therapist; rather you should be aware that you can achieve your need for information and evidence while acting in a manner which may be therapeutic to the victim.

In addition to the techniques mentioned previously for interviewing victims and witnesses three additional points you should remember when interviewing traumatized victims include:

- Phased interviews are already common, however, you need to consider whether a particular interview needs to be spread out over more than one session or more than one day, particularly when interviewing vulnerable victims/witnesses.
- In some cases, it may not be in the interests of the witness’s or victim’s welfare to encourage him or her to relive the event. An example is if the person concerned has suffered severe trauma. You should not hesitate to seek professional advice if you suspect this may be the case.

\textsuperscript{14} Schollum M. (September 2005) \textit{Investigative Interviewing: The Literature} New Zealand Police retrieved on September 1, 2011 from www.police.govt.nz

\textsuperscript{15} Schollum M. (September 2005) \textit{Investigative Interviewing: The Literature} New Zealand Police retrieved on September 1, 2011 from www.police.govt.nz
• It may be best to delay interviewing victims or witnesses of traumatic incidents until the excitement or terror of the incident has subsided so that the witness can concentrate with a more stable mind.

Before you interview a traumatized victim consider the following:

• Investigative priorities

• The fact that the memory deteriorates rapidly in the first few hours then does not change a great deal after that (so if a few hours have already passed there is little to be lost in waiting a day or two or even longer)

• The victim’s wishes (he/she should be involved in the decision)

CREDIBILITY ASSESSMENT

When an incident occurs, you are charged with the task of separating possible witness form others present who are 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 incident and the interview exacerbates this problem because a witness will start incorporating rumors into their own stories until it’s difficult to separate fact from fiction. How do you talk to people present at the crime scene and determine which ones have useful information? You will need to assess their credibility based on your observations of the person’s physical mannerisms, the credibility of their story and their appropriateness of conduct.

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

• 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?

• Emotional – is the person properly emotional? Are they over-emotional or completely without emotion?

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• Corrections – people assessing stored memories will correct themselves while people making up a story will not correct themselves for fear of looking deceptive.

• Pronouns – deceptive subjects tend to leave out pronouns, because they really weren’t at the scene.

• 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%).

• Hand gestures – people remembering an event will use more hand gestures than those making a story up.

• 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.

• Liars lie visually; they talk about what they saw. They do not talk about what they felt; what it sounded like or smelled like.

• Liars remember their stories in chronological order. Truthful people can tell a 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 or “fast forward” it to the middle.

After observing the individual, determine whether the observed person is acting normally (considering the situation) or is acting abnormally. If there are no “red flags,” then you probably have an innocent person. If there are several “red flags,” then separate this person into a group who at least deserve a closer look.

MAINTAINING CONTACT WITH THE VICTIM/WITNESS

Once all the initial statements and physical evidence have been evaluated, more in-depth interviewing or re-interviewing of a person may take place. At that time you can elicit more complete and accurate information about who, what, where, when, why, how and how much. The interview should occur in a setting with as few outside distractions as possible, and where the individual is free to leave. You may need to spend some time building rapport again if the individual has not had contact with you for a while.
Information obtained from the victim/witness during the preliminary investigation should be clarified with the victim/witness and documented for the prosecution. At times the victim/witness may have an opportunity to identify the suspect(s) after the preliminary investigation has concluded. If no one has been identified at the time of the event, the information may still be used for further follow-up.

After initial interviews, the investigation may be assigned to investigators or detectives for further follow-up. The suspect’s identification, for instance, may be made from additional methods such as the use of informants, fingerprint search, photo arrays, line-ups, show-ups, police records, and the accumulated expertise of law enforcement colleagues. The investigator/detective must weigh several factors in deciding how far to take the investigation:

- seriousness of the crime (misdemeanor or felony)
- how much time elapsed prior to the reporting of the crime
- solvability factors
- availability of resources

The victim/witness may remember and provide additional information after the initial interview has concluded. As the investigator, you should maintain open communication to allow the person to provide additional information to you. During any post-interview, follow-up contact with the victim/witness you should:[17]:

- Reestablish rapport with the person. You should ask about something personal that follows up on your previous contact with that person. For example, “Has your arm healed?” Victims/witnesses will continue to provide information to you if they have a continuous, positive relationship with you.

- Ask the victim/witness if he or she recalls any additional information. This reinforces the idea that he or she is an active part of the investigation. Victims/witnesses generally recall additional information following the initial interview.

- Follow the general guidelines learned in this course for conducting, documenting and recording interviews.

- Do not provide any information from other sources. Victims/witnesses may ask you about information that has developed since the initial interview. Providing the person with specific information obtained from other witnesses or from physical evidence may influence his or her perception of the incident.

Should other information arise following the initial interview that differs from, contradicts, or corroborates information the victim/witness provided, this information can be clarified with the person at this time. However, you can present that information to the victim/witness in a non-leading manner. You can provide him or her with neutral information, such as asking if any vehicle was present at the time of the incident, NOT “Are you sure there was not a blue Ford at the scene?”

Reestablishing contact and rapport with the victim/witness often leads to recovery of additional information. Maintaining open communication channels with the victim/witness throughout the investigation can lead to additional evidence.

**EYEWITNESS IDENTIFICATION**

Eyewitness evidence often provides the best lead in an investigation, and eyewitness testimony can be very persuasive to a jury. However, recent DNA exonerations of innocent people have shown that eyewitness error is the primary cause of wrongful conviction. Furthermore, by identifying the psychological factors that lead to eyewitness error, social scientists have shown that the accuracy of eyewitness evidence is greatly affected by the procedures used to collect it. This section discusses principles of eyewitness memory and techniques to reduce the potential for inaccurate recollection.

**General Principles of Memory**

The human memory, unlike a video recorder, does not capture an exact replica of an image and then reproduce that exact replica on demand. Rather, the memory process is ‘constructive,’ meaning that the brain rebuilds the memory of a witnessed event by combining various sources of information, including—but not limited to—visual perception of the event. Thus, eyewitnesses can be led to ‘remember’ things they did not actually see. And even if a witness’s eye captures a perfectly accurate image of an event, the witness’s memory for the event may differ from the original image if outside information supplements or contradicts the original image.

Because eyewitness memory is not like a video recorder, eyewitness evidence should be thought of as a kind of trace evidence. If not collected and preserved properly, it is vulnerable to contamination and distortion. Therefore, law enforcement agents responsible for interviewing eyewitnesses and collecting eyewitness evidence should be mindful of the factors that influence the accuracy of eyewitness memory. Although the individual circumstances of a criminal

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18 Adapted from State of Wisconsin, Department of Justice, Eyewitness Identification Best Practices, 2005
investigation may sometimes make it impossible to follow every suggestion in the following sections, it is critical to understand how eyewitness evidence should be handled under ideal circumstances.\textsuperscript{19}

\textbf{Initial Interviews with Potential Eyewitnesses}

Because an eyewitness’s memory of an event is fragile and can be easily influenced and contaminated, initial interviews with eyewitnesses should focus on keeping the actual memory for the witnessed event separate from other sources of information. Ideally, all interviews with a potential eyewitness should be conducted in a manner that draws on the witness’s independent recollection of the event, without providing external information that could change or augment the witness’s recollection of what occurred.

It is probably not surprising that an eyewitness who is immediately asked if she saw “the man with the beard and red baseball cap” will be more likely to remember a man fitting that description than the eyewitness who is merely asked what she saw. Though the potential for suggestion in such questions may seem obvious, in the heat of the moment it can be difficult to avoid inappropriately suggestive questions, and it may require a conscious effort to avoid suggestive or leading questions. Avoid questions that suggest a witness should remember something specific such as “can you tell me about the eyes?” Instead, use open-ended questions to gather as much information as possible such as “can you tell me anything you remember about the person?” “Do you recall anything else about the person?”

The principle of not tainting the witness’s independent recollection also extends to any comments made after the witness describes what she remembers. Keeping in mind that an eyewitness may have an \textit{inaccurate} memory of what happened, you should avoid giving positive feedback to witnesses who convey eyewitness information. An interviewer who tells an eyewitness, “What you’re saying matches what witness B told me” or, “That description sounds like the man we just arrested” will cement that eyewitness’s feeling that she has just made a correct identification, thereby making her more confident and raising the likelihood that jurors will believe her. If the eyewitness has in fact unknowingly given inaccurate information, the interviewer’s comments will have produced an eyewitness who is more confident, and therefore more believable, \textit{even though what she says is not accurate}.

In addition to making sure the interviewer’s questions and comments do not taint the witness’s independent recollection of the event, first responders should also take steps to make sure witnesses do not taint each other’s recollections by discussing what each saw. To the extent possible, keep potential eyewitnesses at a crime scene separate from each other before they are interviewed. And at the close of the interview advise them that, no matter what other witnesses may

\textsuperscript{19} “Eyewitness Identification Best Practices;” WI Office of the Attorney General, DOJ; June 2005
say, in any future interviews with police they should try to give investigators only information that comes from their own recollection and not from other sources.

In some cases, witnesses will have already discussed the event by the time law enforcement arrives. In these situations, interviewers must ask questions designed to make sure the information given by witnesses comes from their own recollection and not from something another eyewitness told them.

Factors That Affect the Accuracy of Perception

The accuracy of eyewitness recollection is determined not only by evidence collection procedures, but also by factors that affect the accuracy of visual perception. Some of these, such as light, distance, and length of the viewing period, are self-evident. Others are perhaps less obvious. For instance, studies of a phenomenon sometimes called ‘weapon focus’ have revealed that eyewitnesses who see a perpetrator carrying a weapon have less accurate memories of the perpetrator’s face because of the natural tendency to focus on the weapon. Another important factor that affects eyewitness accuracy is whether the witness and the perpetrator are members of the same racial group. Studies consistently show that people are less able to accurately identify members of racial groups other than their own. Finally, studies indicate that eyewitnesses in stressful situations may be less accurate than eyewitnesses in non-stressful situations.

Follow-Up Procedures with Eyewitnesses

After the initial interview with an eyewitness, law enforcement agents may use a number of procedures to obtain further eyewitness evidence. The four major categories are:

- Photo arrays
- Live lineups
- Show-ups
- Facial composites

Social science has made great strides both in identifying the factors that can lead to eyewitness error with each of these procedures and in devising workable methods for minimizing those sources of error. The following section briefly describes the most important components recommended by social science research. The Wisconsin Department of Justice has incorporated these recommendations into its Model Policy and Procedure for Eyewitness Identification. For a more complete description of the recommendations, consult the Model Policy published as “Eyewitness Identification Best Practices” by the Attorney General’s Office and available at www.wilenet.org.
**Photo Arrays and Live Lineups.** The following procedures will help ensure that photo arrays and live lineups adhere to best practices.

1. **Select non-suspect fillers to minimize any suggestiveness that might point toward the suspect.**

   If one individual stands out from the others due to the composition of the array or lineup it may unintentionally lead the eyewitness to identify that individual. For instance, if one of the individuals in the array or lineup has unique facial hair or is photographed with a different background, that person may stand out from the others and may be identified or excluded due to that distinguishing characteristic. Similarly, if the suspect is the only person in the array or lineup who resembles the witness’s description of the perpetrator the witness may unconsciously choose that individual solely because he or she is the only one matching the description – not from actual recall of the perpetrator. Therefore, choose non-suspect fillers who generally match the witness’s description of the perpetrator. A good test is whether a person who has never seen the perpetrator would be able to guess which person in the array or lineup is the suspect, based only on the eyewitness’s description. If so, then the non-suspect fillers may not sufficiently match the description of the perpetrator.

2. **Use a ‘double blind’ procedure, in which the administrator cannot unintentionally influence the witness’s selection.**

   Research has shown that human beings, when conducting experiments in which they know the desired or correct outcome, often unwittingly cue the subject of the experiment or misinterpret the results of the experiment based on their knowledge of the desired or correct outcome despite their best efforts not to. To avoid cueing the witness, either have an independent administrator (someone who does not know the suspect’s identity) administer and conduct the photo array or lineup, or use a procedure that prevents cueing the eyewitness to identify the suspect.

3. **Show witnesses viewing photo arrays and lineups the suspect and fillers one at a time (sequentially) rather than all at once (simultaneously).**

   When witnesses are given a simultaneous presentation of multiple photographs or lineup subjects, they tend to make relative judgments, comparing one person to the next and identifying the person who looks the most like the actual perpetrator – *whether or not the actual perpetrator is part of the array*. Obviously, if the perpetrator is present in the array, this poses no problem – the person who looks most like the perpetrator by definition is the perpetrator. However, when the perpetrator is absent from the array, witnesses still tend to identify the person in the array who looks the most like
the suspect. If the perpetrator is absent from the array, that person will be a filler or an innocent suspect. Research shows that the tendency to make relative judgments is minimized by presenting subjects sequentially, one at a time. Doing so helps witnesses to make absolute judgments rather than comparative ones.

4. **Instruct witnesses viewing photo arrays and lineups that the real perpetrator may or may not be present and that the administrator does not know which person is the suspect.**

At first glance, it might seem that informing an eyewitness that the perpetrator may or may not be present in an array or lineup would be stating the obvious. However, eyewitnesses may feel pressure to identify someone from a lineup or array because they believe the police would not be presenting the individuals if all were innocent. When the true perpetrator is not present, this tendency may influence eyewitnesses to identify an innocent filler or an innocent suspect. Studies show that telling the witness that the perpetrator may or may not be present reduces mistaken identification rates by as much as 41.6%. Telling witnesses that the administrator does not know who the suspect is will also help prevent witnesses from mistakenly looking to the administrator for cues about which person is the perpetrator.

5. **Assess eyewitnesses’ confidence immediately after identification.**

An eyewitness’s statement of confidence in identification can be very important evidence at trial. However, confidence is particularly susceptible to influence by information provided to the witness after the identification process. Research shows that information provided to a witness after an identification suggesting that the witness selected the right person can dramatically—but artificially—increase the witness’s confidence in the identification. Even worse, this effect is greater for eyewitnesses who receive positive feedback after misidentifications than for eyewitnesses who receive positive feedback after accurate identifications. To protect against artificially inflated confidence levels, you must record the witness’s confidence in the identification immediately after an identification procedure.

6. **Avoid multiple identification procedures in which one witness views the same suspect more than once.**

Conducting multiple identification procedures with the same witness and the same suspect can in itself influence the eyewitness and contaminate a witness’s memory. An eyewitness viewing a second procedure with the same suspect may believe that the suspect’s presence in both procedures suggests that authorities believe the suspect is the perpetrator. Or, an eyewitness may become confused and identify a suspect based on recognizing him/her from the prior procedure rather than from remembering the suspect’s presence at
the crime. In either case, the suggestiveness of the second procedure may irreparably taint the eyewitness. Therefore, approach eyewitness identification procedures with the understanding that you have one opportunity to conduct an eyewitness procedure. Except in unusual cases, conduct only one identification procedure - the most reliable procedure available under the circumstances - in which the witness views the same suspect only once.

**Show-ups**

A show-up occurs when an officer presents one suspect to one witness for the purpose of eyewitness identification. Courts have long recognized that the nature of the show-up procedure is inherently suggestive. However, show-ups have benefits for public safety and for innocent suspects. Because of these competing benefits and risks, the use of show-ups must strike a delicate balance. In determining whether to conduct a show-up, consider first whether this procedure is necessary. Next, consider whether the show-up can be conducted close to the crime, in both time and space. Then consider that properly conducted photo arrays and lineups are more reliable than show-ups. So if you already have probable cause to arrest a suspect, do not use a show-up.

The Wisconsin Supreme Court recently weighed these risks and benefits and implemented a rule for the admissibility of evidence obtained using show-ups. According to *State v. Dubose*, show-up identification evidence will be inadmissible unless, based on the totality of the circumstances, the show-up was necessary. A show-up will not be deemed necessary unless the police lacked probable cause to make an arrest or, as a result of other exigent circumstances, could not have conducted a lineup or photo array. Furthermore, the admissibility of show-up identification evidence will turn on whether police conducting a show-up used appropriate safeguards to minimize the suggestiveness of the procedure. The courts will use specific factors such as whether the show-up was conducted with a suspect seated in a squad car and whether the witness was given a non-biased instruction before the show-up, in deciding whether show-up identification evidence is admissible.

If you decide that a show-up is necessary, follow a few basic safeguards. First, before the show-up, obtain the best possible verbal description of the perpetrator from the eyewitness. Second, minimize the suggestiveness of the procedure as much as safety permits by considering whether the suspect needs to be handcuffed, restrained, or seated in a squad car when the show-up is conducted. Finally, before the show-up, be sure to instruct the eyewitness that the person about to be presented may not be the actual perpetrator. Please review the following visual flowchart as an example:

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20 *Dubose*, 2005 WI 126, ¶ 2.
SHOW-UP FLOWCHART

Suspect Detained

Probable Cause to Arrest

*Will witness be available to view lineup or photo array?

Yes

Geographical & temporal proximity?

No

No

Obtain a detailed description from the witness

Yes

Continue investigation; do not conduct show-up

Reduce suggestiveness as much as possible and safe; give witness non-biased instruction

Conduct Show-up

* An example of an unavailable witness would be a victim who is near death.
Facial Composites

In some investigations, law enforcement authorities have an eyewitness description but have either 1) no specific suspect or 2) no visual likeness of a known suspect. In these situations, some law enforcement authorities may try to produce a facial composite of the perpetrator based on the eyewitness’s description. Various methods are used for this, including manual sketches, mechanical systems such as Identikit, and, more recently, computer-based systems.

Because of concerns about the reliability of composites and their potential to taint eyewitnesses’ memories, you should use them cautiously. Research tends to show that none of the existing methods reliably produces recognizable composites in real-world settings. This unreliability raises concern about the possibility that an inaccurate composite might taint an eyewitness’s memory and lead to a misidentification. For instance, if authorities produce a composite and then arrest a person who resembles the composite but who (unknown to them) is innocent, the eyewitness may then identify the innocent suspect because of the suspect’s resemblance to the composite. In this way, an inaccurate composite, and the innocent suspect who resembles it, can contaminate an eyewitness’s actual memory of the perpetrator.

In addition to the concerns discussed previously, inaccurate information from outside an eyewitness’s memory can taint a composite. As with photo arrays, lineups, and show-ups, composites can be compromised if the witness’s description relies on information learned from external sources after the crime or if the person administering the procedure either unintentionally supplies the witness with information or unintentionally incorporates outside knowledge of the case into the production of the composite. For this reason, in the rare situation in which a composite must be used, a double-blind composite procedure is preferable, in which both the witness and the person making the composite are unaware of external information about the case.

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SUSPECT INTERROGATIONS

Interrogation can begin when the investigator has reasonable suspicion or probable cause to believe that the person to be questioned has been involved in a crime. At this point the investigator is no longer conducting an interview, but rather, what is classically called an interrogation—and a new set of rules applies.

The suspect interview is a critical stage in the process of case development. But there is debate on the aim of the suspect interview. The two schools of thought have been: 1) The aim is to induce a confession and 2) the aim is to reach the truth. A confession appears to ensure swift and sure punishment of wrongdoers. This in turn ensures either evidence of guilt, followed by swift and sure punishment; or evidence of innocence, followed by release.

However, recently, some suggest neither is the case. Some suggest that it is “more realistic to see interrogations of suspects as mechanisms directed towards the ‘construction of proof.’” In other words, the objective of interrogations is not to get the slippery concept of “truth” but to build an evidential case or establish that there is no evidential case.22

Characteristics of Interrogations

Unlike interviews, in which the interviewer tries to ask open-ended, non-threatening questions to prompt the victim’s or witness’s own recall, interrogations are more formal and controlled. Here are a few of the ways interrogations can differ from interviews:

• The interrogator controls and directs the interrogation.
• An interrogation is structured.
• An interrogator may need to be a good actor.
• The goal of an interrogation is to establish the truth—beyond a reasonable doubt. The focus is on obtaining admission or a confession.
• Custodial questioning requires Miranda warnings to be given and requires that the suspect knowingly and voluntarily agree to waive those rights.

The interrogator controls and directs the interrogation. One difference between interview and interrogation is that an interview is conducted in a friendly atmosphere where the witness is more comfortable physically and psychologically. The interrogation, by contrast, depends on the investigator having the psychological advantage. An interrogation usually takes place in a controlled environment—sterile rather than comfortable—giving the interrogator

the advantage. The room should have only a table and a couple of chairs and be free of distractions.

Placement of the furniture can affect the suspect’s perception of the interrogator as well. For example, if the interrogator and suspect are seated across a table from one another, the atmosphere seems more formal and adversarial than if there is no barrier between interrogator and suspect. The atmosphere you create may also depend on what type of suspect you have—emotional or non-emotional. An emotional suspect can sometimes be encouraged to talk by setting up a friendly, personable questioning, and by moving into the suspect’s personal space. Similarly, if the suspect makes admissions during the interrogation or looks as if he or she would like to confess, the interrogator may close the space between them, making the atmosphere more “intimate” and personal. Interviews, on the other hand, shouldn’t have any barriers. They should always be personable, friendly and empathetic.

An interrogation is structured. A good interrogator compiles the questions ahead of the meeting, based on what has already been learned about the suspect and their involvement. He or she will structure the questions to try to elicit further information, an admission of involvement, or a full-blown confession. Even with a planned agenda, the interrogator should be flexible, sincere, patient, persistent, and confident.

A interrogator may need to be a good actor. Interrogation is an art as well as a skill. You can master it through training and experience, but remember that a good interviewer is not necessarily a good interrogator. A good interrogator needs to be a good actor and have insight into human psychology and deceptive behaviors. To be effective as an interrogator, you need to be able to communicate regardless of a suspect’s age, background, profession, and intellect. You aren’t just asking the person to recall events—in an interrogation, you are asking the suspect to admit guilt.

You need to convey to the suspect that you understand where he or she is coming from—if the suspect does not feel accepted and affirmed on some level, he or she is unlikely to admit the crime. Being able to convey understanding often requires the ability to act. You will you be dealing with a variety of people—the suspect could be an unskilled laborer, a doctor, a child, a lawyer, a teacher, a senior citizen, another cop, a known criminal or a business manager. Additionally, the crime may be horrific—a child molestation or vicious sexual murder. An effective interrogator can put aside his or her emotions or personal feelings long enough to conduct an effective interrogation.

The goal of an interrogation is to establish the truth—beyond a reasonable doubt. Your objective is to extract information that determines guilt or innocence. If the suspect turns out to be innocent, a good interrogation should screen that person out. Sometimes a guilty suspect provides an admission to
being involved in a small way. You can then ask questions about that admission until additional information is obtained, often times corroborating other statements. Eventually, you may obtain a confession and a subsequent written statement by the suspect.

Interrogation preparation does require time and experience in recognizing individuals as valid suspects and taking the time to obtain enough information to show guilt beyond a reasonable doubt. It may not be enough just to prove probable cause to arrest.

**SEQUENCE OF INTERROGATIONS**

When you interrogate a suspect you have three main goals to achieve:

- You want to give the suspect the opportunity to say what he or she wants to or raise issues he or she wishes to cover;
- You will inform and question the suspect about the incident in question; and
- You will confront the suspect with anomalies and deceptions during the suspect’s account of what happened and during your questioning phase.

Again, the general interviewing steps can be applied when interrogating suspects.

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**Preparation and Planning**

Before conducting an interrogation you should gather as much information about the suspect as possible; name, age, profession, occupation, social and financial

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situation, criminal history, and relation (if any) to the victim. You should also have access to all information from the scene of the crime, including the time and place of the incident, *modus operandi*, physical evidence collected, and all other information collected.

The more information you have prior to the interrogation, the more you will be able to maintain control of the interrogation, ensuring it flows in the right direction. The time that is invested in preparation and planning will vastly improve both your confidence and ability and in the long run, save time.

Some crucial elements of good planning include:

- Understanding the purpose of the interrogation.
- Obtaining as much background information as possible on the incident under investigation, including information on the suspect.
- Defining the goals and objectives of the interrogation.
- Understanding and recognizing the points to prove (elements of the crime).
- Assessing what evidence is available and from where it was obtained.
- Assessing what evidence is needed and how it can be obtained.
- Understanding the law and associated guidelines and considerations.
- Preparing the mechanics of the interrogation (attending to exhibits, logistics, venue, equipment functioning, seating and so on).

**The Interrogation Environment**

*The Interrogation Room*

The room should be quiet, permitting little to no interruptions or distractions. It should be free of “police” memorabilia; the less the room appears associated with the police, the greater the chances of keeping the suspect focused on the questioning, keeping the suspect from considering the potential implications of his giving a statement, and, ultimately, obtaining the suspect’s confession. The ideal room should contain nothing that will distract the suspect, it should be a plain color, contain no ornaments, no pictures, no loose objects (such as paper

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clips or pencils with which the suspect might examine or toy with to lesson his or her tension) and no windows.

**Number of Interrogators**

Popular television shows can lead the public into believing that multiple investigators normally interview a victim or even a suspect. Viewers often see two or more investigators asking the subject a barrage of questions. However, common sense and experience shows that people tend to talk about what they know, including confessing their deepest secrets and crimes, when in the company of one or, at the most, two investigators.

If interrogating in a team of two, one interrogator should take the role of the “lead questioner,” making the necessary introductions, building rapport, and asking the majority of the questions. The second interrogator can focus his or her attention on taking thorough notes or on assessing the subject’s verbal and non-verbal behavior. The second interrogator can also fill in any gaps in the gathering of information that may become apparent as the interrogation progresses.

**Interrogator Non-Verbal Behavior**

Experienced investigators observe the non-verbal behavior of the suspect of the interrogation, especially when they suspect the person of concealing information or having committed a crime. However, you also should realize that the suspect is observing you as well. Your own body language can either encourage or discourage the suspect from providing information. Your body language supplements what you say verbally with dozens of messages, such as small gestures, eye movements, changes in posture, and your facial expressions. Understand that your non-verbal behavior plays a role in the interrogation and take deliberate steps to ensure your body language encourages the person to talk. Maintain an open posture (do not cross your arms); line up your body with the person and face them straight on (as opposed to being canted away from the person); lean forward to show interest in what the person is saying and acknowledge what is said by maintaining consistent eye contact, physically nodding your head and not interrupting the person when they speak.

**Interrogator Verbal Behavior or Paralanguage**

Your voice can affect the outcome of the interrogation, especially during the information gathering stage. If you speak in a loud voice or even stress one word over another, it will act like any other source of distraction and will deflect the suspect’s concentration. If you are abrasive, demanding and demeaning, you will put the suspect on the defensive. You should pay careful attention to the manner in which you speak to a suspect and the way you pose questions.
Recognize the strategic importance of using your voice to gather information and elicit confessions. Project sincerity by consciously and deliberately slowing down your rate of speech and speak very softly. This will be hard for you to do at first because you may become nervous or excited during an interrogation yourself. The natural tendency for someone who becomes nervous is to speak faster and louder. However, you can transform the dynamic of the interrogation by intentionally manipulating your voice.

A loud abrasive tone of voice does not encourage the person being interrogated to cooperate. The pitch of a person’s voice constitutes the best vocal indicator of emotion. Approximately 70% of people experience higher pitch in their voices when they become angry or afraid. You should make every effort to deliver questions without placing more vocal stress or emphasis on any one word over any other.

**Engage and Explain**

During this phase you want to accomplish the following:\footnote{26 Schollum M. (September 2005) *Investigative Interviewing: The Literature* New Zealand Police retrieved on September 1, 2011 from www.police.govt.nz}

- Introduce yourself properly.
- Encourage the suspect to providing you with information freely rather than responding only to your questions.
- Set the tone for the forthcoming interrogation.
- Take time to explain what is going to happen and explain expectation of the suspect during the interrogation.

Interrogations may pose particular challenges for establishing rapport. When a suspect is evasive, deceptive, unwilling to give information or is openly hostile. All of these are situations that can be better handled if you make an effort to treat the person with courtesy, respect and professionalism. You do not have to be friends with the suspect, but you do need to work on engaging the suspect so a cooperative and relaxed relationship is established.

**Account Clarification and Challenge**

How the first question in the “account” stage of the interrogation is worded is vital to the usefulness or otherwise of the subsequent information. Research shows that some of the most common approaches are particularly ineffective. For example, in many interrogations, officers open their suspect interviews with offense specific questioning such as a question containing a direct accusation, a
question seeking a confession, or by a question describing evidence signifying the person’s guilt together with a direct accusation. This tactic is regarded as particularly unhelpful because many suspects completely deny any knowledge or involvement. It leaves the interrogator and the suspect with little room to maneuver and seldom leads to the suspect changing his or her story.

**Obtain the suspect’s own uninterrupted account.**

After explaining how the interrogation will be conducted ask the suspect to tell you, in his or her own words, what happened. During this “narration phase” the suspect does most of the talking (and can choose to tell the truth or engage in deception). This phase also includes any questioning interrogators do to clarify their interpretation of the suspect’s account.

Let the suspect describe what happened in his or her own words and at his or her own pace with no interruptions. The goal is to ask as few questions as possible so that the suspect gives you long narrative responses that contain more information than you would get by asking questions. The object is to try to elicit information, not extract information.

This technique is effective for unwilling suspects (suspects who remain silent, who give “no comment” responses, who are not cooperative, or are hostile, lying, evasive, etc.). However, in these types of interrogations, you have to take control much earlier in the process and manage it differently from interrogations with willing subjects. You have to be more acutely aware of the verbal and non-verbal behaviors of yourself, the suspect and possible third parties. During the account stage, you must be able to manage varying levels of resistance.

**Expand and clarify the suspect’s account and when necessary, challenge the suspect’s account.**

After allowing the individual to give their account, you may need to clarify the account or challenge the suspect’s account. This could be because you were unclear about something the suspect said or because the information is inconsistent with other evidence you have in your possession. Ask specific questions about statements made by the suspect and raise and explore important points in greater depth and detail.

You need to impress on the suspect that you are listening. This increases the stress experienced by the suspect, especially when he or she is attempting to evade issues or lie. A focused and reasoned attack on the suspect’s account can wear down and eventually destroy the suspect’s confidence in his or her ability to maintain their story.

Questioning skills are essential for the end account to be both accurate and reliable. It is important for you to be aware that suspects can move from being
cooperative to uncooperative and vice versa and you’ll need to be able to adjust appropriately. Being fully alert during the interrogation, you should be able to detect changes in the suspect’s language and behavior and adjust your approach as required. You should ask suspects all relevant questions, even in the face of a “No Comment” response. This will eliminate any gaps that the defense might fill in at court.

Investigators use many different interrogation techniques to establish the guilty party, each of which has its own advantages and disadvantages. The use of these techniques depends on the type of crime, the age and gender of the suspect and other factors. Good investigators know how to assess the situation and use the most effective technique to achieve their goals.27

Closure

- The interrogation is then closed, leaving lines of communication open between you and the suspect, if possible.
- Review your notes and other materials.
- Ask the suspect if there is anything else they want to add.
- Close the interrogation.

**Review your notes and other materials.** Review your notes to ensure you asked all of the questions you needed answers to and also double check that you understand what the suspect told you and check that what you wrote down in your notes matches what the suspect said before closing the interview.

**Ask the suspect if there is anything they want to add.** Before closing the interrogation your final question should resemble this question. What you are trying to do by asking a question of this nature is open it up for the suspect to tell you anything else he or she feels he or she should tell you. Your line of questioning may not have allowed the suspect to tell you everything he or she thinks he or she should.

**Close the interrogation**28. Once the questioning phase has been completed, a final important phase remains. This closure phase has three main aims. The first involves you checking that you correctly understood the suspect. The second aim is to try to ensure that if the suspect has more to say, he or she feels he or she can share more information with you.

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When you feel you have all the information the suspect has to offer wrap up the interrogation with a few instructions and reminders. Encourage the suspect to contact you if additional information is recalled and ensure he or she has your contact information. Thank the suspect for his or her cooperation.

Evaluation

After you close the interrogation:

- Examine whether the aims and objectives for the interrogation were achieved.
- Review the investigation in light of the information obtained during the interrogation.
  - Determine what information was obtained?
  - Determine how the account given fits with other available evidence.
  - Determine whether any action needs to be taken.
  - Determine what further inquiries need to be made.
- Reflect upon how well you conducted the interrogation and consider what improvements could be made in the future.

**RECORDING CUSTODIAL INTERVIEWS AND INTERROGATIONS**

_Custodial questioning requires Miranda warnings to be given and requires that the suspect voluntarily agree to answer questions._ In any law enforcement contact with a citizen, that citizen’s Constitutional Rights must be protected. This is especially true during an interrogation, because the person is often in custody. Whenever a person is to be asked questions while he or she is in custody, that person must be given Miranda warnings. Miranda has mandated safeguards to be in place during the interrogation of suspects that add a sense of integrity and trustworthiness to confessions. Additionally, if the suspect waives his or her right to remain silent and to have an attorney present, the investigator must ensure that the _suspect’s waiver is knowing and voluntary_. This means that the suspect is physically and emotionally fit to be a reliable and competent suspect, and is able to understand the position he or she is in and the questions being asked.

Whether you call your contact an interview or an interrogation, any custodial questioning in Wisconsin must consider electronic recording requirements. If the suspect is not in law enforcement’s custody at the time of questioning, and has been clearly advised by law enforcement that they are not in custody and are free to leave at anytime, Miranda does not apply and electronic recording is not required, although it might still be desirable.
Many issues and questions arise from this requirement to record custodial interviews. Guidance can be found in court rulings, best practices documents and Wisconsin Statutes. Any time you advise of Miranda warnings you will now need to create an electronic recording of the questioning. In order to implement legal requirements in a fair and efficient manner, the Wisconsin Attorney General makes the following recommendations:

1. **During custodial questioning, regardless of where it occurs, begin recording at the start of the contact and continue without interruption until the questioning ends.**

   Any custodial questioning of a juvenile (under age 17) involving any criminal violation for which a child might be judged delinquent must be electronically recorded. Any custodial questioning of an adult involving any felony violation must be electronically recorded. When in doubt, the best practice is to electronically record your interview or interrogation.

2. **When possible and practical, digital audiovisual recording is preferred. Digital audio-only and/or analog recording is acceptable.**

   Recordings may be audio only, but digital audiovisual recordings are considered the best evidence.

3. **Agencies should have a written policy on giving notice of recording.**

   Your department will have a policy about whether or not you advise the person being questioned that the interview will be recorded. Recordings should begin with the Miranda advisement and run continuously until the custodial questioning (interview) is over.

4. **Continue to prepare written summaries of custodial questioning, and continue to obtain written statements from suspects.**

   Police reports summarizing the questioning not only support an on-going investigation they also support prosecutorial decisions about the case. While a written statement may seem redundant, virtually every prosecutor wants one, not only for its content but also because it supports the voluntariness of any admission or confession. Additionally, electronic recording is subject to technological problems – having a written summary or statement provides valuable backup.

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30 Recommendations for Electronic Recording of Custodial Interviews, https://wilenet.org
31 Wis. Stats. § 938.135 & § 968.073
32 Digital recordings, as opposed to analog, are recordings that can be viewed and stored on a computer.
33 In this context, the term "audiovisual" refers to a recording with both video and audio.
There are some exceptions to the recording requirements. Given the availability of portable recording devices, electronic recording should be possible in most situations. However, recording might not be possible if:

- the recording device does not work and there is no other device reasonably available;
- the officer operating the recording device inadvertently fails to operate it properly;
- during questioning, the recording device malfunctions without the officer’s knowledge; or
- a person makes a statement to law enforcement spontaneously or in response to a routine booking question.

Furthermore, custodial recording might not be possible if the suspect refuses to speak while being recorded. In general, law enforcement officers should only conduct unrecorded questioning based on a suspect’s refusal if the refusal itself is recorded. You can record the refusal simply by turning the recording device on at the beginning of the contact, without asking for the suspect's permission. If the suspect then refuses to talk while being recorded, the refusal will be recorded.

Remember that whatever you do or say during a custodial interview will not only live forever but also likely be heard or seen later by attorneys, juries, judges, the media and others. While recording interrogations you should speak clearly and distinctly; ensure that the answers of the person questioned are audible and clear so they will be adequately captured by the recording equipment. You have a responsibility to make a complete record during the recording, so you should verbally describe all non-verbal action/s by a suspect such as: head nods, gestures, demonstrations, etc. Street slang and jargon will require extra attention (translation) to ensure clarity. Your notes, written report and any incriminating statements or confessions will likely be compared against the recorded interview.

Apart from Miranda warning and recording requirements, incriminating statements will only be admissible if they were made voluntarily. A determination whether statements are voluntary is based on all the circumstances in which they were given. The following represent bad practices that call into question voluntariness. As an officer questioning a person never:

- threaten or humiliate the person, directly or indirectly
- indicate that you will protect the person from harm or do the person favors if they answer questions
• question the person so persistently or intensively that the person believes that he or she has no choice other than to answer questions

• question a person who is not in a condition to make a voluntary choice whether or not to answer. For example, if a person is in a weakened condition because of injury, drugs, fatigue, etc., or is young and emotionally unstable, or if for any other reason the person's ability to make a voluntary choice may be limited, you should be cautious about the manner and extent of questioning.

Except for advising the suspect of his or her Constitutional rights, under Miranda, you are not required to tell the suspect anything about the questioning, the subject of the questioning or any other information. Remember that every suspect is innocent and not a criminal until his or her guilt is proven in court. Always maintain optimal courtesy and maintain good rapport.

A suspect being questioned may offer a range of responses. The suspect may provide a confession, disclosing the circumstances and details of the criminal act along with his statement of full culpability. Or questioning may provide an admission that helps to prove guilt, but that is less than a confession. Or the subject could deny any wrongdoing whatever or attempt to provide a reason to prove the accusation is false.

TYPES OF SUSPECTS

Suspects fall into two general classifications: the emotional offender and the non-emotional offender. You may vary your approach and methods during the interrogation of a suspect based on which type he or she represents.

**Emotional Offender.** The emotional offender can be easier to question as the crime in question is usually their first offense. They may yield an admission or confession if provided with some rationalization for their actions based on anger, frustration, love or hate.

You can appeal to emotion by showing sympathy, telling them that anyone would have done the same thing if in their situation, blaming society ("you just couldn’t help it"), and just being friendly (offering a soda or cigarette break). An emotional offender will “come clean” when confronted with overwhelming evidence of their guilt. As an interrogator, you must observe the suspect’s physical reaction to whatever information you provide about the crime. Someone who is guilty has a lot of tension that might exhibit itself as dry mouth, foot-tapping, finger-drumming, etc.

**Non-Emotional Offender.** Non-emotional offenders can be more hardened criminals with a great deal of experience in the criminal justice system. He or she has been interrogated in the past, and doesn't like to talk. The experienced
offender does not exhibit emotion or respond to any of the above techniques. They strive to control their talking as well as their body language and non-verbal cues.

Here are some different methods you might use with a non-emotional offender. However, before you are comfortable and effective using these strategies, you will need experience in interrogating several types of individuals. Methods include these:

- **Question and Answer**: a series of questions based on the facts of the case are presented for the suspect to answer.

- **Narrative**: let the suspect tell his or her story and repeat it three or four times. Then question him or her on his or her rendition of the facts.

- **Alibi**: subject states where he or she was and what he or she was doing during the time of the incident. After attempting to verify the suspect’s version, you then confront the suspect with any inconsistencies.

- **Factual**: you confront the suspect with the physical and circumstantial evidence against him or her.

- **Good cop/bad cop**: using two different officers, one with a soft approach and the other more confrontational, may be fruitful in some cases.

- **Retelling**: have suspect tell the story again in reverse order.

A good interrogator will develop these and other strategies to conduct effective interrogations. The more options you have available for directing an interrogation, the more likely you will be successful. There are no hard-and-fast rules on how to elicit the information, admissions and confessions (other than legal and constitutional requirements). Your intuition, based on your experience, will guide you. However, remember that the confession should be supported or corroborated by other independent physical or circumstantial evidence whenever possible. Never consider un-corroborated information as evidence. False confessions lead to wrongful convictions.
RESISTANCE FROM SUSPECTS

There are numerous reasons why someone will fail to cooperate in an interrogation. Various factors influence the suspect’s comfort and vulnerability during an interrogation. Resistance should be anticipated, but very often it leads officers to panic, repeat the question over and over again or prematurely close the interrogation. The panic is felt most often when a suspect says “no comment,” or remains silent. Like other forms of resistance, such as hostility, lying, evasiveness, and non-cooperation, they put the investigator’s ability to cope on the line.

The easiest strategy for dealing effectively with resistance is to develop and practice a range of responses to be used when suspects say they will not answer a question or give a statement. Useful hints for responses include:

- Reject the “win-lose” mentality.
- Detailed knowledge.
- Detailed planning and detailed preparation including potential barriers to talk;
- Balance of assertion and listening consistent with finding out facts and minding feelings (respect the person, empathy, supportiveness, positiveness, openness, a conversational style signaling a commitment to talk across as equals, not up-down or as pseudo-equals).

False Confessions

You must be aware of why some people make false confessions. These occur in different ways and for different reasons, including some dispositional and situational factors. Factors that may lead to false confessions:

Dispositional (i.e. personal risk factors):

- Personality characteristics – people who make false confessions tend to be suggestible, compliant, anxious, lack assertiveness, and have poor memories and low self-esteem, or are seeking attention.
- Youth – extremely vulnerable when faced with leading questions, repetition, disbelief and other tactics from figures of authority.
- Intellectual impairment – mainly due to suggestibility and desire for approval, and an inability to understand the consequences of their actions.

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• Psychopathology – the tendency towards false confession may be found in people with distorted perceptions and memories, a breakdown in reality, impaired judgment, anxiety, mood, disturbance, and possibly a lack of self-control.

Situational:

• Physical custody – the extreme anxiety created in some suspects by being in unfamiliar surroundings and unable to escape can make a person willing to do or say anything.

• Isolation – many interrogations go on for long periods, causing fatigue, fear and uncertainty.

• Confrontation – the research is clear that a person can be induced to confess and to accept responsibility for something they didn’t do by tactics such as strongly asserting they are guilty, interrupting denials, presenting false incriminating evidence, and saying they failed a polygraph test.

• Minimization – a process of providing or allowing the suspect to make face-saving excuses for the event implies leniency will follow (i.e. being allowed to go home or get a lighter sentence).

Interrogations should be conducted with integrity, commonsense and sound judgment. You should avoid unethical behaviors such as making threats or promises or using coercive and oppressive tactics. Instead, treat the suspect in a professional manner and treat him or her with respect. If you build rapport with the suspect, especially repeat offenders, it may be easier to get the information that you need from him or her in the future.
A central part of any investigation is interviewing victims and witnesses and interrogating suspects. Because law enforcement is usually not on the scene when a crime occurs, we must rely on physical evidence left behind and other people’s memories of the event—testimonial evidence. Often the most persuasive kind of testimonial evidence is eyewitness evidence, particularly eyewitness identification.

Important though it is, eyewitness evidence is not infallible. Its accuracy depends on how well the witness was able to perceive information through his or her senses, whether other information interfered with accurate recall, and how well the witness is able to recollect, or retrieve the information. For these reasons, you must take care not to suggest anything to a witness—if a witness’s recollection is not clear, don’t encourage the witness to fill in the gaps. Separate witnesses as soon as possible, so that they cannot talk about what they remember, potentially influencing each other’s recall. And be sure that techniques used to help a witness retrieve information—such as show-ups, line-ups (photo or in-person), and composite drawings—are used properly to avoid biasing the witness’s recall and limiting relative judgments. False or mistaken eye-witness identifications are the leading cause of wrongful convictions.

As first responding officer, one of your first tasks at a crime scene will be to locate, separate, and identify witnesses and victims to conduct preliminary interviews. Interviewing requires good communication skills, including calming people, establishing rapport, conveying by your words and body language that the information is important, asking open-ended questions, and using active listening skills to gain as much information as possible. Your skilled use of Professional Communication Skills will help ensure that you get accurate and complete information. Documenting interviews thoroughly — including direct quotations and/or electronic recordings whenever possible—will help ensure that you can recall your interviews accurately in your report and later for court.

Unlike interviews, in which you encourage the witness and victim to tell you what happened in their own words and their own way, interrogations are more formal, more structured, and more focused. In an interrogation, you have likely already identified a suspect. You believe that this suspect “did it.” Your intent is to maintain the advantage and direct the flow of information toward clearly establishing the nature and extent of the suspect’s involvement in the crime (or lack of involvement). You must prepare before questioning by collecting as much information as you can about the suspect and the crime. You generally will prepare questions ahead of time, although you must always remain flexible and be able to change direction if the circumstances warrant.
Questioning often happens when a suspect is in custody—and therefore requires that you advise the suspect of his or her Miranda warnings and obtain a voluntary waiver before you ask any questions. *If it is a Miranda moment—it is a recording moment.* Custodial interviews must be electronically recorded. Remember that every suspect is considered to be innocent and not a criminal until his or her guilt is proven in court. The duty to scrupulously protect a suspect’s Constitutional rights comes with the oath you swore when you became a law enforcement officer—and doing so will make any admission of guilt all the more persuasive. Skilled investigators value neutrality, recognizing the need to postpone judgment—even in the face of compelling evidence—to support the police officer’s proper role to develop all the facts rather than simply building a case against any particular suspect.

Different types of suspects require different techniques for interrogation. What appeals to an emotional offender may have no affect whatever on a more experienced, non-emotional offender. As you gain more experience, you will develop a repertoire of interrogation tactics to use in different circumstances. Even an overt confession from a suspect remains testimonial evidence, subject to the limitations of perception and recall. Any information gained from an interrogation ought to also be supported by evidence that ties the suspect to the crime.

An inquisitive frame of mind should guide your interviews and interrogations. Be mindful about constructing a thorough search for the truth. Show respect for people’s rights, build conversational rapport, pay attention to detail, seek to corroborate statements, explore inconsistencies, value open-mindedness, and end each interview and interrogation in a way that will facilitate further contact and questioning. Remember that your Investigation is first and foremost a search for information that will ultimately lead to the truth.
GLOSSARY

ADMISSION – Something less than a confession (confesses to all elements of a crime).

COMPLAINANT – A person who brings a case against another in court. However, in law enforcement work, it is used to refer to those who bring a matter to law enforcement’s attention thereby instigating a law enforcement response.

CONFESSION – Confesses to all elements of a crime.

FIELD INTERVIEW – The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual identity and resolving the officer’s suspicions.

FOCUSED INTERVIEW – A focused set of questioning with a clearly defined goal, such as fulfilling the elements of a crime.

INTIMIDATED WITNESS – Victims and witnesses who are in fear or distress about testifying. This may be due to age, social, cultural or ethnic background, domestic and employment circumstance, religious beliefs, political opinions, or behavior towards a witness on the part of the accused, members of the accused’s family or associates of the accused.

INTERROGATION – The act or process of questioning a suspect as part of an official investigation or trial.

INTERVIEW – At its simplest, an interview has been called “a conversation with a purpose” (Hodgson, 1987, p2), but in criminal cases, much more conversational skills are required. Officers need to keep in mind that interviews also involve imparting information, i.e. explaining to the interviewee what is happening and why and keeping the person informed about what is happening next.

LIE – An intentional misstatement that the person knows is not the truth.

PAT-DOWN SEARCH – A “frisk” or external feeling of the outer garments of an individual.

PERCEPTION – That which a person genuinely believes to be true, i.e. “Perception is Reality.”

REASONABLE SUSPICION – Facts that can be articulated that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been or is about to be committed.
**STRUCTURED INTERVIEW OR INTERROGATION** – Formal questioning in a controlled setting of a non-confrontational or confrontational manner.

**SUSPECT** – Is a person suspected of having committed the offense under investigation. A suspect is also commonly referred to as the “offender,” or “perpetrator.”

**WITNESS** – Anyone with personal knowledge (saw, heard, felt, smelled) of any fact or circumstance, including things that happened, words said, the presence of documents and other tangible items, that can help prove or disprove that an offense was planned or committed, that someone participated or had a motive or opportunity, or that physical or documentary evidence exists.

**VICTIM** – Is a person injured, killed or harmed as a result of an event or circumstance.

**VULNERABLE WITNESSES** – Victims and witnesses under the age of 17 at the time of the hearing, or vulnerable by reasons of mental disorder, significant impairment of intelligence and social functioning, physical disability or physical disorder.
RESOURCES

Lamb, Michael E. and Poole, Debra A; "Investigative Interviews of Children—A Guide For Helping Professionals"; American Psychological Assoc; Wash, D.C., 1998


