
Deception in the Interrogation Room: Sometimes Tragic for Persons With Mental Retardation and Other Developmental Disabilities

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Reporter David Simon, after "living" with a Baltimore homicide unit for a full year, recalled the department's frustration over "hits" thought to be carried out by contract killer Dennis Wise. No witness could be found to testify against him. When he was brought in for questioning, things got to the point where the detectives and the suspect knew the drill:

Enter room.

Miranda.

"Anything to say this time, Dennis?"

"No, sir. Just want to call my lawyer."

"Fine, Dennis."

Exit room.

These terse visits generated no small anguish in the detectives. They only succeeded in putting Wise beyond the reach of police interrogation (Simon, 1991, p. 210).

After all, rapists, murderers, and arsonists strike with surprising quickness. They literally explode on unsuspecting citizens and neighborhoods. They flee the crime scene as rapidly as they arrive. Many criminals even make a game out of trying to trick the police—especially avoiding all questioning about what they may have done.

Also, every time a violent crime rips up a neighborhood, the police get pressured from all directions: The community is upset. The media pushes for reportable results. Ambitious politicians nudge police departments about their "failure to control crime"—as if all violent criminal behavior with its acidic surprises and explosions could ever be predicted and brought under total human control. The worst morale buster, however, happens when a department must close a case after, say, 2 years without an arrest.

So what do the police do? They keep looking everywhere for evidence, and they see ev-

ery citizen as a potential subject for interview. What's more, *the law allows them to use deception in their questioning sessions*. As a citizen, I am a firm believer in the use of police tricks that keep violent criminals in an interrogation room for reasonable periods until they truly confess.

But here is the rub. We in the field of cognitive disabilities know persons who will confess to murdering John F. Kennedy or Abraham Lincoln—if that's what detectives lead them into saying. After all, we train them to respect and trust policemen. The idea that police officers would ever lie never enters their minds.

Fortunately, human service agencies and police departments are beginning to compare notes about the possibility of coerced, false confessions. They do it even though one agency works at *training and liberating* folks whereas the other focuses on *investigating and arresting*. So the conversations between the two groups are not going to be cozy—but I think they are ready to talk to each other as never before.

What do human service agencies and police departments need to talk about? For starters, they should be discussing effective interrogation techniques and how they might lead to wrong-man indictments. Then, because persons with mental retardation are increasingly present and active in neighborhoods across the land, there are certain investigative dilemmas that need to be identified and understood as never before.

Interrogation Techniques

The Interrogation Room as a Place of Total Control

This room is not like any conference room people with disabilities ever entered before. It usually exists deep in the bowels of a police station, where others seldom walk. It is bare and contains no distractions of any kind. Accord-

ing to Simon (1991), total control of the suspect is the reason why he is seated farthest from the interrogation room door, light switches, and thermostats.

Three of the nation's foremost interrogation technicians go further by suggesting that there be a small table for coffee and cigarettes at the side of the suspect's chair but that the space between this chair and the interrogator's remains open. The detective's chair should be movable—enabling him to scoot it forward until his nose can almost touch the suspect's (Inbau, Reid, & Buckley, 1986).

The Interrogator as Master Controller

Agencies and institutions, according to the wisdom of an earlier age, were utter geniuses at being the master controllers of the lives of persons with disabilities. Now, however, great effort goes into helping them to speak for themselves. In the interrogation room, these precious privileges can be ruthlessly ripped away again.

From the moment the suspect is taken into that room, the detective becomes a "take-over" guy. Legally, people can walk out if they have not been charged with anything, but most do not do so because the detective exudes such an overriding power.

Every time a suspect has to ask for or be offered a cigarette, water, coffee or a trip to the bathroom, he's being reminded he's lost control.

When the detective arrives with pen and notepaper and begins the initial monologue to which a potential suspect or witness is invariably subjected, he has two goals in mind: first, to emphasize his complete control of the process; second, to stop the suspect from opening his mouth. (Simon, 1991, p. 213)

Long Waits

In some cases a detective takes the suspect into the room, then walks out. He may say, "I'll be right back." Then he leaves the suspect to stew in his own thoughts for half an hour or so. This could fluster anyone, but it can be worse for persons with disabilities.

Miranda Schizophrenia

The law mandates that you as a suspect be told that you have the right to remain silent, that anything you say can be used against you, that you have a right to talk to a lawyer before answering any questions, that one will be hired

if you cannot afford one. The oral advisement is usually backed up with a printed waiver sheet with places for your initials and signature.

The interrogator wants you to sign that sheet. He is not about to stand before you like Nathan Hale and recite with deep reverence the precious value of each of these freedoms. Should you sign them away so quickly?

No way . . . we're talking sacred freedoms here, notably your [Fifth Amendment protection] against self-incrimination, and hey, it was good enough for Ollie North, so who are you to go incriminating yourself at the first opportunity? Get it straight: A police detective, a man who gets paid government money to put you in prison, is explaining your absolute right to shut up before you say something stupid. (Simon, 1991, p. 205)

Using low-key, sotto voce statements, the detective tries to lead the suspect into thinking all this is just a formality that must be taken care of before getting down to the real business at hand. Being trained to please good authority figures, persons with mental retardation often catch the officer's wooing, low-key tone of voice. They trust him. They initial and sign the sheet. They do it though they do not have a clue about what can happen to them after that.

Stimulus-Response

An interrogator as the total stimulus in the room imparts a series of preplanned statements. Then he watches and takes note of the subject's every response—posture, eye contact, body movement, and tone of voice. Many of us have studied and practiced behavior analysis, but few of us have ever moved into it as deeply as police interrogators have tried to do.

"Nine Steps of Interrogation"

The book *Criminal Investigations and Confessions* by Inbau et al. (1986) is regarded as the undisputed bible of police interrogation. The authors offer nine powerful steps that many detectives practice to perfection. What follows is only a brief glimpse of this expansive and precisely detailed system.

Step 1. The Positive Confrontation: The interrogator enters the room holding a file folder. After exchanging greetings, he immediately recites a pre-planned confrontation—stating in no uncertain terms that the suspect did the crime. Still standing, the interrogator waits and studies the suspect closely for any reactions. After the pause, the confrontation is repeated.

Then the interrogator sits down and assumes the role of a sympathetic and understanding person.

Step 2. Theme Development: The interrogator softly casts about for "moral justifications" that might have led to the criminal act—heavy drinking, an overbearing employer, a hateful wife, a tough childhood, overwhelming expenses, etc. Discussing these justifications are aimed at lightening the load of responsibility by blaming something or someone else. These justifications are usually voiced in monologue while attempting to keep the suspect from speaking too much until he is ready to admit his guilt.

Step 3. Handling Denials: The interrogator tries to fend off all I-didn't-do-it statements by placing the focus elsewhere. An often-used deflection: "Look, we have overwhelming evidence. We already know you did it. Now we want to know *why* and *how* you did it."

Step 4. Overcoming Objections: The detective skillfully tries to overcome feeble objections even though they are partly true ("She was my good friend," or "I don't even own a gun"). The objections are handled as softly as possible so as not to drive the suspect into a shell or talk about an impending punishment.

Step 5. Maintaining the Suspect's Attention: When the suspect "tunes out," the officer uses special tactics to keep him paying attention. One, of course, is drawing nearer and nearer to the suspect.

Step 6. Handling Passive Moods: When a suspect cries or assumes a defeatist posture, the interrogator commiserates and finally urges him to "tell the truth." In one case, expert interrogator Inbau actually shed tears and showed such contempt for the bullying wife, that the suspect "broke down and confessed, his main regret—that he had not killed the woman sooner" (Thomas, 1998).

Step 7. Presenting Alternative Questions: The detective presents the suspect with two incriminating choices. "Did you plan this or did you do it on the spur of the moment?" is an example in which either choice is an admission of guilt.

Step 8. Obtaining Oral Confessions: When an alternative question is answered, the investigator responds with powerful reinforcers. These are only limited responses, however, and

no attempt is made to get the suspect to tell everything.

Step 9. Converting the Oral Into a Written Confession: Finally, the interrogator leaves the room, supposedly to check on something. Then he returns with a witness. In the case of a person with disabilities, a more complete confession is pieced together. It is written or typed by the interrogator. By this time the suspect is in such confusing agony, he thinks that signing the confession will make those bad feelings go away.

Two-Way Stretches

Almost all interrogation systems are designed to pull the suspect in two directions. Forensic psychologist Saul Kassin (1997) described it as *maximization* and *minimization*. Maximization is loaded with "scare tactics" by overstating the seriousness of the offense and magnitude of the charges—making false or exaggerated claims about the evidence. Then comes a shift to minimization—a "soft sell" technique that lulls the suspect into a false sense of security "by offering sympathy, tolerance, face-saving excuses, and moral justification; by blaming the victim or an accomplice; and by underplaying the seriousness and magnitude of the crime.

After observing 182 live and videotaped interrogations, attorney/sociologist Richard Leo (1996) identified the use of negative and positive incentives. In the *negative mode*, the interrogator confronts the suspect with incriminating evidence—both true and false. When the officer swings toward the positive, he appeals to the self-interest and conscience of the suspect. He praises the suspect and downplays the seriousness of the offense.

Sometimes, the two-way stretches have picturesque names—like "good cop-bad cop" or "Mutt and Jeff." In these situations, one interrogator becomes a mean, angry S.O.B., and the other takes the role of a kind and caring, fatherly sort of guy. They have practiced their roles to such emotional perfection, Shakespeare would have been touched by the psychological push-pull they can create. Then the suspect is led to believe that the only way to stop the anguish will be to sign the confession.

At the critical moment, the detectives tell their suspects that they really are sick—sick of lying, sick of hiding. They tell them *it's time to turn over a new leaf*, that they'll only begin to feel better when they start to tell the truth. Amazing enough, many of them actually

believe every last word of it. (Simon, 1991, p. 221)

So they sign, thinking things will get better. But they only get worse.

Misspelled Words

It is utterly amazing how many confessions contain misspelled words that were supposedly corrected and initialed by the suspect. This act is used to convince a jury that a suspect carefully went over the statement before signing it. The only problem with this trick is that many of the people we work with made these notations on their confessions—even though they cannot read!

"He Told Us Things That Only The Criminal Could Know"

Testifying detectives use this statement against our people time and time again—especially when the interrogation was not recorded on audio or videotape. Then comes the "swearing contest" in court. Highly articulate detectives convince the jury that the suspect did indeed incriminate himself. Then comes a scared, fumbling inarticulate defendant who swears he did not. So whom does the jury believe? The answer is obvious. Juries are quicker to believe officers than defendants.

"If You Just Tell Us We Can All Go Home"

Picture a suspect so befuddled, he looks for anything that will get him out of that awful room. Then he hears these words and thinks he has discovered an out. A guy like Ted Bundy would never take this bait—but Johnny Lee Wilson did. While being questioned about the murder of 79-year-old Pauline Martz in Aurora, Missouri (even though he had an alibi), he heard the interrogators say, "If you just tell us we can all go home." Later, he told film producer Lisa Sonneborn, "When they said that, I thought they meant me, too" (Sonneborn, 1995). He signed the confession, but he did not go home.

"Friday and Gannon"

Many ploys are tailor made for specific suspects. For example Manchester, Connecticut did that to Richard Lapointe, a suspect with congenital brain damage and hydrocephalus who was suspected of murdering 88-year-old Bernice Martin. He was led past a series of

props—enlarged pictures, charts, lists, and diagrams—with magic marker notations showing that DNA, fingerprints, and other falsified statements pointed to him as the killer. The only problem: He couldn't read them. On the other hand, the officers must have sensed him to be a little slow. So, on one chart in bold marking, they listed the lead detectives as "Friday and Gannon" (Condon, 1993). If a cunning and calculating criminal spied the names of these two characters from the old *Dragnet* TV series, the officers' jig would have been up.

"If You Say I Did It, Then I Did It, But I Don't Remember Being There"

When an interrogator with no understanding of persons with mental retardation hears these words, he sees it as a confession. Anyone who works closely with these individuals will sense something else. Even though he did not do the crime, the suspect is trying to please the interrogator by telling him what he wants to hear.

Investigative Dilemmas

The Most Painful Pivotal Issue

Take two top interrogators who are highly skilled and well-respected by their peers. Put them in different interrogation rooms. Take two persons with a similar degree of mental retardation and put one in each room. If one officer possesses experience with persons having such a disability and the other does not, there is a good chance that the statements they get will be remarkably different.

How could that be? Gisli Gudjonsson (1992), one of the world's foremost forensic psychologists explained in the conclusion of his critically acclaimed book, *The Psychology of Interrogations, Confessions and Testimony*:

1. Some persons with a mental handicap appear superficially to have satisfactory social functioning, which disguises their vulnerabilities;
2. Persons with a mental handicap see their vulnerabilities as being private and personal. As a consequence, many would not inform the police of their limitations and they may even deliberately attempt to hide them;
3. Many police officers do not seem knowledgeable about the "signs" that should alert them to the possibility that they are interviewing a person with a mental handicap;
4. Even when police officers are aware of certain background information that should alert them to per-

sons' vulnerabilities (e.g., hospital admissions, "special" schooling), they may fail to appreciate the importance of the information (Gudjonsson, 1992, p. 325).

Knowing the Signs

Every qualified human service professional knows and understands the kinds of signs Gudjonsson (1992) is talking about. They know the people they serve can sometimes:

Rely on authority figures for solutions to everyday problems

Try too hard to please persons in authority

Watch for clues to answers the interrogator wants to hear

Bluff greater confidence than they possess

Have a hard time with reading, writing, and computing

Try to maintain an all-too-pleasant facade

Abhor labels like *mental retardation*

Possess serious memory gaps

Take blame too quickly

Possess impaired judgment

Are plagued by short attention spans

Exhibit uncontrolled impulses

Walk with an unsteady gait

Possess struggling speech (Perske, 1991, pp. 15-23 and Perske, 1994, pp. 377-380)

All qualified human service workers can describe these "signs" in their own words to any police officer who really wants to know and understand them.

No Way to Say "I'm Sorry"

In a national summit conference of human service and criminal justice workers in Washington, DC, a detective from an East Coast police department was asked a penetrating question:

Suppose you got a confession from a man with retardation; it was announced to the media—then you discovered the confession was false. Would you admit your mistake?

The detective answered calmly and without any defense: "No. I would go to my captain and tell him."

"Would you do anything else?"

"Nope." (Personal communication between R. Perske and a police detective, 1995— This documented source is being kept confidential so as not to embarrass the detective or his police department.)

Why would a detective respond this way?

When an officer says, "I blew it. I'm sorry," the cash register in the heads of lawyers will go "ding." They stand ready to launch a lawsuit for some very easily gained money for their client and themselves.

It was not always that way. In 1924, a well-loved priest was gunned to death on a downtown street in Bridgeport, Connecticut. A "transient indigent" named Harold Israel, "a person with low mentality of the moron type," was fingered, and an "overwhelming" case was built against him that even included his "confession." Israel was headed for the electric chair. Then, just before the trial began, a state attorney, Homer Cummings, went before the court. Speaking without notes for an hour and a half, Cummings described his own private investigation, showing that Israel did not commit the crime. After he finished, the audience gave him a standing ovation; but some members of the criminal justice community did not, and his own local political party shunned him mercilessly. Even so, President Franklin Delano Roosevelt appointed Cummings as his United States Attorney General (Zeldes, 1994).

One cannot be sure whether the Bridgeport story would have ended as happily today. After all, our society has become so litigious, any government agency daring to say, "I'm sorry," could be in for serious trouble. Even so, every neighborhood dearly needs its police officers to keep it as a place for trust, nonviolence, and safety. Persons with mental retardation clearly need law officers for friendship, support, and understanding. That is why we train individuals with mental retardation to go to them for help.

Consequently, human service workers should be available to police departments at the earliest moment when someone they have worked with or know about is a suspect in a crime. The workers may even be called upon to go quickly to the station house and initiate a conversation, sharing what they know regarding a certain person who is being interrogated.

No police officer wants to pin a crime on an innocent person. When it comes to persons with disabilities, we in the field of mental retardation/developmental disabilities may be able to help the police not make such a mistake.

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