

PART I

**INTERROGATIONS AND
CONFESSIONS**

CHAPTER 1

Interrogation Tactics and Techniques

The purpose of this chapter is to discuss the tactics and techniques advocated by practical interrogation manuals and the context in which interrogations occur. Nearly all published interrogation manuals originate in the USA (for a review see Leo, 1992, 1994). One exception is Walkley's (1987) *Police Interrogation. A Handbook for Investigators*, which was the first manual written for British police officers. It was heavily influenced by traditional American interrogation manuals and never gained national support in Britain.

In this chapter I shall discuss the nature of these techniques, their strengths and merits, and how their use can 'go wrong'. Of course, there are a large number of interrogation manuals regularly published in the USA, with each author claiming special expertise in the field and offering advice to interrogators. It would be unrealistic to try to review all of these manuals. Undoubtedly, the most influential practical manual is the one written by Inbau, Reid and Buckley (1986). This manual has just been revised, up-dated and expanded (Inbau, Reid, Buckley & Jayne, 2001). Hundreds of thousands of investigators have received the training in their technique (Inbau *et al.*, 2001). Their book has also influenced many other authors; thus the main focus of this chapter will be on this approach and its implications. Other relevant publications will be referred to at appropriate points and issues discussed.

POLICE TRAINING MANUALS

Practical interrogation manuals are generally based on the extensive experience of interrogators and offer allegedly effective techniques for breaking down suspects' resistance. The authors of these manuals argue that most criminal suspects are reluctant to confess because of the shame associated with what they have done and the fear of the legal consequences. In their view, a certain amount of pressure, deception, persuasion and manipulation is essential if the 'truth' is to be revealed. Furthermore, they view persuasive interrogation techniques as essential to police work and feel justified in using them. The degree of persuasion recommended varies in different manuals. One of the most crude and extreme forms of persuasion recommended in a modern interrogation

manual is in a book by Patrick McDonald (1993) entitled *Make 'Em Talk! Principles of Military Interrogation*, which states on the back cover

Every military has its ways of making subjects talk and this book takes you step-by-step through the most common, effective, and notorious methods used, including those favored by the Japanese, Germans, Koreans, Vietnamese, and Iraqis.

McDonald then goes on to describe how he recommends interrogators break down resistance and denials by inducing debilitation and exhaustion:

If you have subjects under your total physical control, you can wear them down and make them easier to exploit and more compliant. One of the simplest methods to debilitate people physically is to severely limit their food intake or intermittently refuse them food altogether (p. 44).

Most other manuals (e.g. Inbau, Reid & Buckley, 1986; Inbau *et al.*, 2001; Macdonald & Michaud, 1992; Rabon, 1992, 1994; Royal & Schutte, 1976; Stubbs & Newberry, 1998; Walkley, 1987) are more psychologically sophisticated than McDonald's coercive guide to interrogators, but they rely to a varying degree on the processes of influence and persuasion. This reliance on persuasion is inevitable in view of the reluctance of many suspects to admit to their crimes or certain aspects of their crimes. There is an extensive literature on the psychology of persuasion, which demonstrates its potentially powerful influence in different contexts (Cialdini, 1993).

Leo (1994) correctly points out that persuasion in the context of interrogation is the process of convincing suspects that their best interests are served by their making a confession. In order to achieve this objective the police may engage in a range of deception strategies. These include the following.

- Police officers concealing their identity while trying to obtain a confession (e.g. pretending to be a fellow prison inmate, befriending a person under false pretences, posing as a criminal). Such undercover operations are practised in some countries, for example, in Canada, the USA, and Britain. In Britain such an undercover operation went seriously wrong in the case of the famous murder of Rachel Nickell in 1992 on Wimbledon Common, South London (Britton, 1997; Fielder, 1994; Gudjonsson & Haward, 1998; Stagg & Kessler, 1999). In Britain, undercover police officers are not allowed legally to entrap people or coerce a confession out of them. In contrast, such undercover operations are commonly used in Canada to coerce confessions out of resistant suspects and they are allowed in evidence because they fall outside the legal framework of custodial interrogation (see Chapter 22).
- During interrogation the police may misrepresent the nature or seriousness of the offence (e.g. in a murder case by lying to the suspect that the victim is still alive and may talk, or implying that the death must have been accident or unpremeditated).
- Employing trickery is, according to Leo (1994), the most common police deception during interrogation. This typically involves presenting the suspect with false evidence of guilt (e.g. falsely claiming that a co-defendant

has confessed, exaggerating the strength of evidence against the suspect, falsely claiming that the police are in possession of forensic or eyewitness evidence that indicates the suspect's guilt or lying about the results from a polygraph test).

There is a general reluctance among the authors of police interrogation manuals to accept the possibility that their recommended techniques could, in certain instances, make a suspect confess to a crime that he or she had not committed. Indeed, most interrogation manuals completely ignore this possibility. Some authors of interrogation manuals, for example Macdonald and Michaud (1992), at least acknowledge that false confessions do happen on occasions, but their understanding of false confessions is restricted to two main causes: 'A wish for publicity and notoriety' and 'Forceful prolonged questioning with threats of violence' (p. 7). This represents a very restricted view of false confessions. Macdonald and Michaud (1992), unlike Inbau, Reid and Buckley (1986), point to the dangers of using leading questions and recommend that interviewers should not lie to suspects. Their apparently ethical approach falls down when they recommend how suspects should be advised of their legal rights:

Do not make a big issue of advising the suspect of his rights. Do it quickly, do it briefly, and do not repeat it (p. 17).

Zimbardo (1967) argued, on the basis of his early review of American police training manuals, that the techniques recommended were psychologically sophisticated and 'coercive'. He went as far as to suggest that they were an infringement of the suspect's dignity and fundamental rights, and might result in a false confession. This was an important early acknowledgement that psychologically manipulative and deceptive interrogation techniques have the potential to cause false confessions to occur. This potential risk of false confessions occurring during custodial interrogation was extensively discussed in *The Psychology of Interrogations, Confessions and Testimony* (Gudjonsson, 1992a). Subsequently a number of American scientists have written extensively about the potential dangers of coercive interrogation techniques. These include Kassin (1998), Leo (1998, 2001a), Leo and Ofshe (1998a), McCann (1998), Ofshe and Leo (1997a, 1997b), Underwager and Wakefield (1992), Wakefield and Underwager (1998) and Wrightsman and Kassin (1993).

The opposing views of Zimbardo and the authors of police interrogation manuals are the result of looking at police interrogation from different perspectives. Police interrogation manuals base their techniques on instinctive judgements and experience, whilst psychologists such as Zimbardo view the recommended techniques within the framework of what is known in the literature about the psychology of attitudes, compliance and obedience. The fundamental problem is the lack of scientific research into the police interrogation process and the techniques utilized. Recent research in Britain and America into police interrogation techniques has significantly advanced our knowledge in this very important area. These studies will be discussed in this and subsequent chapters.

THE REID TECHNIQUE

The 'Reid Technique' is described in detail by Inbau, Reid and Buckley (1986) and Inbau *et al.* (2001). The first edition to this manual was published by Inbau and Reid (1962). These authors had previously published similar books on interrogation under a different title (Inbau, 1942, 1948; Inbau & Reid, 1953). There was a second edition of the present book published in 1967 and the third edition, published in 1986 by Inbau, Reid and Buckley. The third edition gave the up-to-date state of the art of interrogation and introduced an important legal section and an appendix on the psychology of interrogation (Jayne, 1986). Important differences existed between the three editions, but the third edition was psychologically most sophisticated (Leo, 1992). It introduced a nine-step method aimed at breaking down the resistance of reluctant suspects and making them confess, referred to as the "Reid Technique". Inbau *et al.* (2001) have recently published a fourth edition of the book, which builds on the previous work of the authors, updates it and introduces new topics, such as false confessions, guidance to court room testimony and responses to defence experts' criticisms of their work.

In the introduction to their new book Inbau and his colleagues set out their working principles and disclaimer:

To protect ourselves from being misunderstood, we want to make it unmistakably clear that we are unalterably opposed to the so-called third degree, even on suspects whose guilt seems absolutely certain and who remain steadfast in their denials. Moreover, we are opposed to the use of any interrogation tactic or technique that is apt to make an innocent person confess. We are opposed, therefore, to the use of force, threats of force, or promises of leniency. We do approve, however, of psychological tactics and techniques that may involve trickery and deceit; they are not only helpful but frequently indispensable in order to secure incriminating information from the guilty or to obtain investigative leads from otherwise uncooperative witnesses or informants (Inbau *et al.*, 2001, p. xii).

I have two comments to make on the above disclaimer. First, it seems rather half-hearted and defensive with regard to their approval of trickery and deceit. Their use of the word 'may' is misleading, because there is nothing 'may' about it. Their recommended tactics and techniques *do* involve trickery and deceit. It is an essential part of the Reid Technique, as will become evident from reading a description of their recommended techniques. Elsewhere two of the authors (Jayne & Buckley, 1991) go as far as to state that not only are trickery and deceit justified, they are 'absolutely essential in discovering the facts'. Second, the authors' reassurance that they disapprove of 'the use of force, threats of force, or promises of leniency', is not entirely correct when their techniques are carefully scrutinized. Admittedly, they do not recommend physical threats and force, but there is considerable psychological manipulation and pressure applied by the Reid Technique to break down resistance. This is perhaps best illustrated by their article in the *Prosecutor* (Jayne & Buckley, 1991), where the authors are more forthcoming about the nature of their techniques than in the more cautiously worded fourth edition of their book. For example, at one point

in the article they imply, if not openly admit, the importance of uses of promises of leniency:

Because of this, after a suspect confesses—even though he or she acknowledges committing the crime—this suspect is likely to believe that because the crime was somewhat justified, or could have been much worse, he or she should receive some special consideration.

The basic assumptions made by Inbau and his colleagues are the following.

- Many criminal investigations can only be solved by obtaining a confession.
- Unless offenders are caught in the commission of a crime they will ordinarily not give a confession unless they are interrogated over an extended period of time in private, using persuasive techniques comprised of trickery, deceit and psychological manipulation.
- To break down resistance interrogators will need to employ techniques which would in the eyes of the public normally be seen as unethical:

Of necessity, therefore, investigators must deal with criminal suspects on a somewhat lower moral plane than upon which ethical, law-abiding citizens are expected to conduct their everyday affairs (Inbau *et al.*, 2001, p. xvi).

The Reid Technique is broadly based on two processes.

- Breaking down denials and resistance.
- Increasing the suspect's desire to confess.

Inbau *et al.* recommend that prior to the interrogation proper suspects are interviewed, preferably in a non-custodial setting where they do not have to be informed of their rights, in an informal way. The purpose of this non-accusatory interview is for the investigator to establish rapport and trust, trick the suspect into a false sense of security through malingered sincerity, gather detailed information about the suspect and his background, which can be used to break down resistance during subsequent interrogation, determining by observations of verbal and non-verbal signs whether or not the suspect is guilty, and offering the suspect the opportunity of telling the truth without confrontation. Once these objectives have been achieved, and the investigator is 'definite or reasonably certain' about the suspect's guilt, the interrogation proper commences. Inbau *et al.* recommend that the same investigator should ideally conduct both the interview and the interrogation.

During this pre-interrogation interview a polygraph examination may be conducted on the suspect. The results, if unfavourable, are then used to confront the suspect with his apparent lies and this often proves effective in eliciting confessions (Gudjonsson, 1992a).

Since the work of Inbau and his colleagues is very influential and commonly used by police and military interrogators, I shall review the Reid Technique in some detail. The authors appear to have blind faith in their technique in relation to false confessions:

None of the techniques or tactics presented here would cause an innocent person to confess to a crime (Jayne & Buckley, 1991).

In Chapter 15 of their book, Inbau *et al.* recognize that interrogations have resulted in false confessions, but they do not associate this possibility with their own techniques:

It must be remembered that none of the steps is apt to make an innocent person confess and that all the steps are legally as well as morally justified (p. 212).

The 'Steps' for Effective Interrogation

Inbau *et al.* (2001) suggest 'nine steps' to effective interrogation of allegedly guilty suspects. These are the types of case where the interrogator feels reasonably certain that the suspect is guilty of the alleged offence. As in the case of the pre-interrogation interview, they repeatedly emphasize the importance of interviewing suspects in private.

The nine steps of interrogation were apparently developed over many years of careful observation of successful interrogations and by interviewing suspects after they had confessed, although it is important to note that Inbau and his colleagues have not published any data or studies on their observations. In other words, they have not collected any empirical data to scientifically validate their theory and techniques. We simply do not know the following.

- How many confessions are obtained by the use of the Reid Technique in contrast to the use of less coercive techniques? In other words, what is the incremental value over other techniques?
- How many suspects falsely confess as a result of the use of the Reid Technique? More specifically, what is the proportion of false over true confessions?

The advantage of interviewing suspects after they have confessed is that the interrogator can learn more about the processes and mechanisms that elicit successful confessions (Gudjonsson & Sigurdsson, 1999). The importance of post-confession interviews is recognized by Inbau and his colleagues and they recommend them to interrogators as a standard practice. Material obtained during post-confession interviews formed the basis for the Reid Technique (see Inbau *et al.*, 2001, p. 392). The nine steps of interrogation are briefly discussed below, whereas the theory behind the development of the nine steps, and why they are effective in eliciting a confession, is discussed in Chapter 5.

Prior to proceeding through the nine steps the interrogator should be thoroughly familiar with all the available facts about the case and the suspect. In other words, he must be well prepared before conducting the interrogation. An ill prepared interrogator will be at a serious disadvantage when trying to elicit a confession from an allegedly guilty suspect, because the tactics and techniques of effective interrogation are dependent upon the interrogator coming across as confident and fully knowledgeable about the case. Another advantage of good preparation, which is implicit in the use of interrogative 'theme development', is that the more the interrogator knows about the suspect and his background the more he can identify the suspect's weaknesses and use them to his advantage when attempting to break down resistance. This is why the authors emphasize the need for an informal non-accusatory interview prior to the interrogation.

The selection of the interrogation strategy in a given case depends largely on the personality of the suspect, the type of offence he or she is accused of, the probable motive for the crime and the suspect's initial reaction to questioning. Suspects are classified into two broad groups: *emotional* versus *non-emotional* offenders. Emotional offenders are considered likely to experience feelings of distress and remorse in relation to the commission of the offence. For emotional offenders a sympathetic approach, appealing to their conscience, is the strategy of choice. Non-emotional offenders are those not likely to experience feelings of remorse for the offence and they do not become emotionally involved in the interrogation process. Here the interrogator uses a factual analysis approach, appealing to the suspect's common sense and reasoning. The two approaches are not mutually exclusive and both may be used with suspects with somewhat different emphasis.

Step 1: 'Direct Positive Confrontation'

This consists of the suspect being told with 'absolute certainty' that he or she committed the alleged offence. The interrogator states confidently that the results of extensive enquiries by the police indicate that the suspect committed the offence. Even if the interrogator has no tangible evidence against the suspect he or she should not give any indication of this to the suspect and if necessary must pretend that there is evidence. After the initial confrontation there is a brief pause, during which the suspect's behavioural reactions are closely observed. The suspect is then confronted with the accusations again. Passive reaction to the accusation is considered to be evidence of deception. The interrogator then proceeds to convince the suspect of the benefit of telling the truth (i.e. the truth as seen by the interrogator), without an obvious promise of leniency, which would invalidate any subsequent confession. This may focus on pointing out the suspect's 'redeeming qualities' to get him to explain his side of the story, explaining that it is all a matter of understanding his character and the circumstances that led to the commission of the offence and pointing out the need to establish the extent of his criminal activity (i.e. the extent of his criminal activity is exaggerated to elicit a reaction from the suspect). The interrogator then proceeds to Step 2.

Step 2: 'Theme Development'

Here it is important that the interrogator displays an understanding and sympathetic attitude in order to gain the suspect's trust. The interrogator suggests various 'themes' to the suspect, which are aimed to either minimize the moral implications of the alleged crime or give the suspect the opportunity of accepting 'moral excuses' for the commission of the crime (i.e. they are face-saving excuses). In this way the suspect can accept physical responsibility for the crime while at the same time minimizing either the seriousness of it or the internal blame for it. Inbau *et al.* point out that this kind of theme development is most effective with emotional offenders, because they experience great feelings of shame and guilt. Giving them the opportunity of relieving their guilt by accepting moral excuses for what they have done acts as a powerful

confession-inducing factor. It is not clear how useful in practice the distinction is between the emotional and non-emotional offenders, because interrogators may have problems differentiating between the two groups.

The themes suggested by the interrogator are aimed to 'reinforce the guilty suspect's own rationalizations and justifications for committing the crime' (Inbau *et al.*, 2001, p. 232). This has to be presented in such a way as not to jeopardize the validity of the confession when the case goes to court (i.e. any inducements must be implicit and subtle so that they are not construed legally as a promise of leniency).

Themes for emotional suspects. It is recommended that the type of theme utilized by interrogators should take into account the personality of the suspect. The following themes are recommended for the emotional type of suspects.

- (a) *Tell the suspect that anyone else being faced with the same situation or circumstance might have committed the same type of offence.* This has the effect of normalizing the criminal behaviour of the suspect and, combined with the comfort from the interrogator's apparent sympathy with the suspect, makes it easier for the latter to confess. As I explained in Gudjonsson (1992a), Inbau, Reid and Buckley (1986) appeared to take theme development far beyond ethical and professional limits when they recommended that

In sex cases, it is particularly helpful to indicate to the suspect that the interrogator has indulged, or has been tempted to indulge, in the same kind of conduct as involved in the case under investigation (p. 98).

This amounts to the police officer being encouraged to make a false confession in order to manipulate and trick the suspect into making a confession (Gudjonsson, 1993a). It is therefore not surprising that they do not want the session to be properly recorded.

Interestingly, in the revised edition of their book, Inbau *et al.* (2001) try to distance themselves from the above statement. It now reads

In sex offenses cases, it is particularly helpful to indicate to the suspect that the investigator has a friend or relative who indulged in the same kind of conduct as involved in the case under investigation. In some situations, it may even be appropriate for the investigator himself to acknowledge that he has been tempted to indulge in the same behaviour (p. 243).

- (b) *Attempt to reduce the suspect's feelings of guilt for the offence by minimizing its moral seriousness.* This can be achieved, for example, by the interrogator commenting that many other people have committed more shameful acts than that done by the suspect. This has the effect of reducing the suspect's embarrassment over talking about the offence. Inbau *et al.* (2001) suggest that this theme is particularly effective when suspects are questioned about sex crimes, although it is also effective with many other types of crime. There is some evidence from our own research that such tactics are likely to be effective with sex offenders (see Gudjonsson & Sigurdsson, 2000, and Chapter 6).

- (c) *Suggest to the suspect a morally acceptable reason for the offence.* This includes such ploys as telling the suspect that he probably only committed the offence because he was intoxicated or on drugs at the time. Another ploy, in certain types of offence, is to suggest that the suspect never really meant to do any harm, or attributing the offence to some kind of an accident. The purpose is to 'ease' the suspect into some kind of a self-incriminating admission, no matter how small, which makes him more amenable to making a full and detailed confession at a later stage of the interrogation. Being able to provide the suspect with some face-saving explanations for the crime greatly increases the likelihood of a confession being forthcoming.
- (d) *Condemnation of others as a way of sympathizing with the suspect.* The rationale for this theme is that it will make it much easier for the suspect to confess if some responsibility for the offence can be attributed to the victim, an accomplice, or somebody else. The interrogator can use this ploy to his advantage by exploiting the readiness of many suspects to attribute partial blame for what they have done to others. Inbau *et al.* suggest that this type of theme can be particularly effective in certain sex crimes, for example, where children and women are the victims.
- (e) *Using praise and flattery as a way of manipulating the suspect.* The argument here is that most people enjoy the approval of others and the appropriate use of praise and flattery facilitates rapport between the suspect and the interrogator. This ploy is considered particularly effective with people who are uneducated and dependent upon the approval of others.
- (f) *Point out that perhaps the suspect's involvement in the crime has been exaggerated.* The emphasis here is that the interrogator makes the suspect believe that perhaps the victim has exaggerated his involvement in the offence. Pointing out the possibility of exaggeration may make some offenders more willing to make partial admission, which can subsequently be built upon.
- (g) *Make the suspect believe that it is not in his interest to continue with criminal activities.* This theme is considered particularly effective with first time offenders and juveniles. It is pointed out to them that it is in their own interest to own up to what they have done in order to prevent serious trouble later in life. In other words, the suspect is told that by confessing he can learn from his mistakes and escape more serious difficulties.

Themes for non-emotional suspects. Inbau *et al.* suggest the following themes for non-emotional suspects.

- (a) *Try to catch the suspect telling some incidental lie.* Once a suspect has been caught telling a lie regarding the case under investigation, no matter how small the lie is, he will be at a psychological disadvantage; in fact, from then onwards he has to make serious attempts to convince the interrogator that everything he is saying is now the truth.

Inbau *et al.* (2001) make an important point regarding the use of this technique:

... the interrogator should bear in mind that there are times and circumstances when a person may lie about some incidental aspect of the offense without being guilty of its commission (p. 281).

The lesson to be learned for interrogators is that innocent suspects as well as guilty ones may lie during interrogation about some incidental aspect of the offence, such as giving a false alibi because they do not want to reveal where they really were at the time.

- (b) *Try to get the suspect to somehow associate himself with the crime.* This ploy may form part of some other theme, but it can be used as an effective theme in its own right. This consists of, for example, trying to get the suspect to agree to having been at or near scene of the crime, or somehow having incidental links with the crime. This should be done early on during the interrogation so that the suspect does not fully realize at the time the implications of agreeing to his presence at the scene of the crime.
- (c) *Suggest there was a non-criminal intent behind the act.* Here the interrogator points out to the suspect that the criminal act may have been accidental or committed in self-defence rather than intentional. The idea is to persuade the suspect to accept the physical part of the offence while minimizing the criminal intention. Inbau *et al.* are aware of the potential legal implications of this theme:

The investigator must appreciate that, unlike other themes presented, suggesting a noncriminal intention behind an act does directly imply that *if* the behavior was accidental or inadvertent the suspect may not suffer negative consequences. This is an attractive escape route for the guilty suspect anxious to avoid facing consequences for his crime. However, a critical question to ask is whether an innocent suspect would be apt to accept physical responsibility for an act he knows he did not commit. Absent a full confession, this is a question a judge or jury will ultimately decide based on the background, experience, and cognitive abilities of the defendant. It is our contention, however, that an innocent suspect operating within normal limits of competency would not accept physical responsibility for an act he did not commit. Furthermore, since this interrogation tactic is merely a stepping stone approach to eventually elicit the complete truth, this approach would not cause an innocent person to provide false evidence concerning his involvement in a crime (p. 286).

The above quote is an excellent illustration of self-justification for a technique that the authors recognize, presumably after being confronted with the issue in the court case they cite (*State v. Christoff* [1997], Fla. Cir. Ct), seriously distorts suspects' perceptions of the negative consequences of their self-incriminating admissions. I am in no doubt that this kind of theme development is potentially very dangerous and on occasions results in a false confession (see Case Number 8 in Chapter 9).

- (d) *Try to convince the suspect that there is no point in denying his involvement.* Here the interrogator points out to the suspect that all the evidence points to his guilt and that it is futile to attempt to resist telling the truth. The effectiveness of this theme depends upon the ability of the interrogator to persuade the suspect that there is sufficient evidence to convict him, regardless of any forthcoming confession. The suspect is told that the interrogator

is only concerned about the suspect being able to tell his side of the story, in case there were any mitigating circumstances.

- (e) *Play one co-offender against the other.* When there is more than one person suspected of having committed the offence, then each one will be very concerned about the possibility that the other(s) will confess in an attempt to obtain special consideration when the case goes to court. This fear of mutual distrust can be used to 'play one against the other'. The main ploy is to inform one, usually the assumed leader, that his co-offender has confessed and that there is no point in his continuing to deny his involvement in the commission of the offence. This can be an effective technique with certain offenders (Sigurdsson & Gudjonsson, 1994). However, this kind of tactic has its dangers. For example, in one British case a police officer produced a bogus confession and presented it to a co-defendant, who subsequently confessed and implicated others in one of the worse miscarriages of justice in British history (Foot, 1998).

Step 3: 'Handling Denials'

It is recognized that most offenders are reluctant to give a confession, even after direct confrontation, and their denials need to be handled with great care and expertise:

Confessions usually are not easily obtained. Indeed, it is a rare occurrence when a guilty person, after being presented with a direct confrontation of guilt, says: 'Okay, you've got me; I did it'. Almost always, the suspect, whether innocent or guilty, will initially make a denial (pp. 303–304).

Repeated denials by the suspect are seen as being very undesirable because they give the suspect a psychological advantage. Therefore, they must be stopped by the interrogator. This means that the interrogator does not allow the suspect to persist with the denials. The suspect's attempts at denial are persistently interrupted by the interrogator, who keeps telling the suspect to listen to what he has got to say.

Inbau *et al.* argue that there are noticeable qualitative differences between the denials of innocent and guilty suspects, and these can be detected from various verbal and non-verbal signs. For example, innocent suspects' denials are said to be spontaneous, forceful, and direct, whereas the denials of guilty suspects are more defensive, qualified, and hesitant. Similarly, innocent suspects more commonly look the interrogator in the eye, and lean forward in the chair in a rather rigid and an assertive posture.

Inbau *et al.* (2001) recommend the use of the 'friendly–unfriendly' technique (when the various attempts at sympathy and understanding have failed). The 'friendly–unfriendly' technique, also known as the 'Mutt and Jeff' technique (Irving & Hilgendorf, 1980), can be applied in various ways. This commonly involves two interrogators working together, one of whom is friendly and sympathetic and the other being unfriendly and critical. A variant of this technique is for the same interrogator to play both roles, at different times during the interrogation.

The purpose of the 'friendly-unfriendly' technique, according to Inbau *et al.*, is to highlight the difference between a friendly and an unfriendly approach, which in the end makes the suspect more responsive to the sympathetic approach. This technique is said to be particularly effective with the quiet and unresponsive suspect.

Step 4: 'Overcoming Objections'

This consists of the interrogator overcoming various objections that the suspect may give as an explanation or reasoning for his innocence. Innocent suspects are said to more commonly continue with plain denials, whereas the guilty suspect will move from plain denials to objections. There are various ways of overcoming these objections, which are said to be an attempt, particularly by guilty suspects, to gain control over the conversation as their denials begin to weaken. Once the suspect feels that the objections are not getting him anywhere he becomes quiet and begins to show signs of withdrawal from active participation in the interrogation. He is now at his lowest point and the interrogator needs to act quickly in order not to lose the psychological advantage he has gained.

Step 5: 'Procurement and Retention of Suspect's Attention'

Once the interrogator notices the suspect's passive signs of withdrawal, he tries to reduce the psychological distance between himself and the suspect and to regain the suspect's full attention. He achieves this, Inbau *et al.* argue, by moving physically closer to the suspect, leaning forward towards the suspect, touching the suspect gently, mentioning the suspect's first name, and maintaining good eye contact with the suspect. The suspect will look defeated and depressed. As a result of this ploy, a guilty suspect becomes more attentive to the interrogator's suggestions.

Step 6: 'Handling Suspect's Passive Mood'

This is a direct continuation of Step 5. As the suspect appears attentive to the interrogator and displays indications that he is about to give up, the interrogator should focus the suspect's mind on a specific and central theme concerning the reason for the offence. The interrogator exhibits signs of understanding and sympathy and urges the suspect to tell the truth. Attempts are then made to place the suspect in a more remorseful mood by having him become aware of the stress he is placing upon the victim by not confessing. The interrogator appeals to the suspect's sense of decency and honour, and religion if appropriate.

The main emphasis seems to be to play upon the suspect's potential weaknesses in order to break down his remaining resistance. Some suspects cry at this stage and this is reinforced and used to the interrogator's advantage: 'Crying is an emotional outlet that releases tension. It is also good indication that the suspect has given up and is ready to confess' (p. 351). They are no longer resistant to the interrogator's appeal for the truth. A blank stare and complete silence is an indication that the suspect is ready for the alternatives in Step 7.

Step 7: 'Presenting an Alternative Question'

Here the suspect is presented with two possible alternatives for the commission of the crime. Both alternatives are highly incriminating, but they are worded in such a way that one alternative acts as a face-saving device whilst the other implies some repulsive or callous motivation. It represents the culmination of theme development and in addition to a face-saving function, it provides an incentive to confess (i.e. if the suspect does not accept the lesser alternative others may believe the worst case scenario). This is undoubtedly the most important part of the Reid Model and one commonly seen in cases where suspects' resistance has been broken down during interrogation. It is a highly coercive procedure where suspects are pressured to choose between two incriminating alternatives when neither may be applicable. This is a very dangerous technique to apply, particularly among suspects who are of below average intelligence, which applies to a large proportion of suspects detained at police stations for questioning (see Chapter 3).

The psychological reasoning behind the alternative question is

A person is more likely to make a decision once he had committed himself, in a small way, toward that decision. This is precisely what the alternative question accomplishes during an interrogation. It offers the guilty suspect the opportunity to start telling the truth by making a single admission (Inbau *et al.*, 2001, p. 353).

In other words, the suspect is given the opportunity to provide an explanation or an excuse for the crime, which makes self-incriminating admission much easier to achieve. The timing of presentation of the alternative question is critical. If presented at the right time it will catch the suspect by surprise and make him more likely to confess.

Inbau *et al.* point out that occasionally suspects will persist with their face-saving excuses, but the interrogator will usually have no problem in obtaining a more incriminating explanation for the crime by pointing out flaws in the excuses given.

The potential impact of the presentation of the alternative question is illustrated by the following comment:

It is important to note that even the most experienced and skilled investigators achieve a confession rate of about 80%. Of the approximately 20 percent of suspects who do not confess after being offered an alternative question, it might be argued that a small percentage of them could have been innocent (Inbau *et al.*, 2001, p. 364).

It is evident from the above quote that the authors have great faith in the ability of interrogators to detect deception by the use of non-verbal signs:

... the vast majority of suspects who have exhibited the previously described behaviours indicative of deception throughout the course of the interrogation are, in fact, guilty of the offense (p. 364).

The above comment makes no reference to the possibility of a false confession. Indeed, the authors are very confident in their technique:

Furthermore, *none of what is recommended is apt to induce an innocent person to offer a confession* (p. 313).

More to the point, no innocent suspect, with normal intelligence and mental capacity, would, acknowledge committing a crime merely because the investigator contrasted a less desirable circumstance to a more desirable one and encouraged the suspect to accept it (p. 365).

These comments demonstrate a remarkable naivety of these authors and lack of psychological sophistication. It is not just a question of the interrogator merely contrasting two alternative scenarios in isolation; as the authors point out themselves, the alternative question represents the culmination of theme development and may have involved several hours of interrogation. It is the end product of a long and demanding confrontation.

Step 8: 'Having Suspect Orally Relate Various Details of Offense'

This relates to the suspect having accepted one of the alternatives given to him in Step 7 and consequently providing a first self-incriminating admission. In Step 8 the initial admission is developed into a full blown confession which provides details of the circumstances, motive and nature of the criminal act.

Inbau *et al.* (2001) emphasize that it is important at this point in the interview that the interrogator is alone with the suspect, because the presence of another person may discourage the suspect from talking openly about the offence. Once a full confession has been obtained the interrogator asks somebody to witness the confession. This is done in case the suspect refuses to sign a written statement.

Step 9: 'Converting an Oral Confession into a Written Confession'

This is very important because a signed confession is much stronger legally than an oral one. Furthermore, as a large number of suspects subsequently retract or withdraw their self-incriminating confession it is considered advisable to convert the oral confession into a written statement as soon as practicable. Suspects can easily deny that they ever made an oral confession, whereas it is much more difficult to challenge a written confession that has the suspect's signature on it. The authors warn that delaying taking a written statement may result in the confessor having been able to reflect upon the legal consequences of the confession and retracting it.

Inbau *et al.* (2001) repeatedly state that interrogators should under no circumstances minimize the legal responsibility for the offence. This is simply not true when one carefully studies their manual. Some of the themes they suggest to interrogators are based on implanting in the suspect's mind the idea that legal responsibility will be reduced or eliminated (e.g. the act was self-defence, an accident, or unintentional). Therefore, irrespective of what these authors claim, the reality is that the themes are very much based on minimizing, in the mind of the suspect, the responsibility for the offence and its perceived legal consequences.

Discussion

Kassin and McNall (1991) argue that the interrogation techniques embodied in the above nine steps approach consist of two main strategies, which they refer to as 'maximization' and 'minimization', respectively. The former strategy, which Inbau *et al.* recommend for non-emotional suspects, involves the interrogator frightening the suspect into a confession by exaggerating the strength of evidence against him or her and the seriousness of the offence. The 'minimization' strategy, by contrast, is recommended for remorseful suspects. Here the interrogator tricks the suspect into a false sense of security and confession by offering sympathy, providing face-saving excuses, partly blaming the victim or circumstances for the alleged offence, and minimizing the seriousness of the charges. Kassin and McNall (1991) provide convincing experimental evidence to show some of the inherent dangers of these so-called 'subtle' interrogation approaches to the perceptions of potential judges and jurors. That is, these interrogation approaches contain implicit ('hidden') messages which have important conviction and sentencing implications, generally against the interest of the defendant. The experiments of Kassin and McNall are important because they show that the techniques advocated by Inbau and his colleagues are inherently coercive in that they communicate implicit threats and promises to suspects. Taken as a whole, these experiments raise serious concerns about the use of 'maximization' and 'minimization' as methods of interrogation and the confessions they produce should be used cautiously as evidence in court.

Inbau *et al.*, who cite these experiments in their article, unconvincingly dismiss their relevance to real life interrogation. When criticisms are made of their technique Inbau and his colleagues demand data and ecologically valid empirical support, but their book is full of assertions and generalizations about their technique without supporting empirical evidence.

THE FORMAT AND RECORDING OF THE CONFESSION

Inbau *et al.* (2001) argue that confession statements can be prepared in two different ways. First, the interrogator can obtain a narrative account from the suspect, which gives all the necessary details of the offence itself and its circumstances. Second, a written confession can be prepared in the form of 'questions and answers'; that is, the interrogator asks the specific questions and the suspect provides his answers to the questions asked. Probably the best approach is to combine the two formats as appropriate according to the nature of the case and the ability of the suspect to give a detailed narrative account. Inbau and colleagues point out that the main legal advantage of a question-and-answer format is that parts of the statement can more easily be deleted if considered inadmissible by the trial judge.

Inbau *et al.* recommend that the suspect be initially interrogated without the entire content being formally recorded. Once the confession has been obtained, the interrogator then draws up a concise summary, using the suspect's own words as far as possible. These authors argue strongly against the use of tape and video-recording of interrogation, maintaining that it results in a number of practical problems and would dramatically reduce the number of confessions

given by suspects. Similar concerns were raised by some British police officers who were initially resistant to the introduction of tape-recorded interrogations (McConville & Morrell, 1983), but these have proved unfounded. In spite of being against video-recorded interrogations, Inbau and his colleagues can see the advantage in selected recording of confessions, but are concerned about the consequences:

...while the videotaping of selected confessions may certainly be beneficial to the prosecution, the practice opens the door for wider sweeping court rulings or standards that could eventually require the videotaping of the entire interrogation along with its subsequent confession for each and every suspect interrogated. In the final analysis, would this be good for the criminal justice system? (Inbau *et al.*, 2001, pp. 395–396).

My answer is definitely yes. The electronic recording of all police interviews and interrogations would be in the interests of justice, and it will come. It would ensure that what happens in private within the walls of the interrogation room becomes open to public scrutiny. This is clearly not what Inbau and his colleagues want. They are undoubtedly right that electronic recording potentially gives the defence useful material for disputing confessions at suppression hearings, although it does of course also protect the police against unfounded allegations.

The failure to record all interrogation sessions makes it difficult, if not impossible, to retrospectively evaluate the entire interrogation process (e.g. what was said and done by the interrogator to break down resistance and obtain a confession).

There is no doubt that tape-recording, or video-recording, of police interviews protects the police against false allegations as well as protecting the suspect against police impropriety. It provides the court with the opportunity of hearing and seeing the whole picture relating to the interrogation. It also has the advantage of making it easy to systematically analyse and evaluate the entire interrogation and confession process (Baldwin, 1993; Pearse & Gudjonsson, 1996a, 1999; Pearse, Gudjonsson, Clare & Rutter, 1998).

In England and Wales contemporaneous recording of statements, which are handwritten by one of the interviewers, was implemented in 1986 as an interim arrangement until tape recorders were introduced and installed at police stations. Contemporaneous recording of statements meant that all questions and answers in interviews had to be recorded. This inevitably slowed down the interview process. Prior to that a taped or handwritten statement was produced at the end of the interrogation session, which represented a summary of what had emerged from the questions and answers. According to McConville and Morrell (1983), 'The main impetus behind the pressure to monitor police interrogations has been a concern to ensure that suspects are fairly treated and that evidence of alleged confessions is based on something more than the bare word of the interrogators' (p. 162).

Since 1991 there has been mandatory tape-recording of any person suspected of an indictable offence who is interviewed under caution (English & Card, 1999; Ord & Shaw, 1999). Prior to that date routine tape-recording of interviews had already commenced at some stations on an experimental basis (Baldwin, 1993).

The early work of Barnes and Webster (1980) showed that a routine system of tape-recording could provide an important means of 'strengthening police interrogation evidence whilst helping to ensure that the rights of suspects are safeguarded' (pp. 47–48). More recently, experience with tape-recordings has shown that it does not interfere unduly with standard interrogation practices (Willis, Macleod & Naish, 1988).

Some police forces in England have already begun to experiment with the use of video-recording of suspect interviews (Baldwin, 1992a) and there is a move in some states in America towards video-recording police interviews (Leo, 1996a). Hopefully in the near future police interrogations in England and America will be video-recorded. An experimental project in Canada with the video-recording of police interrogations produced favourable results (Grant, 1987). Most importantly perhaps, video-recording did not appear to inhibit suspects from making self-incriminating admissions and confessions, and it provided the court with important information for assessing the reliability of the confession. More recently, closed circuit television (CCTV) is being installed in the reception area of the custody suite, in the corridors and designated cells at some English police stations to protect the rights and health of the detainee (Newburn & Hayman, 2002).

Video-taping of interrogations is now commonly used in serious cases in America with many positive results (Geller, 1992). Geller found that law enforcement agencies were generally positive about the use of video-taping and found that it helped to prove the voluntariness of the confession at trial, it had led to improvements in interrogation techniques and it was helpful to use the tapes for training purposes.

However, in spite of the advantages of video-recording police interviews, it is not without certain dangers, such as undue reliance being placed by jurors on non-verbal signs and the fact that even the position of the camera can influence perceptions of coercion (Lassiter & Irvine, 1986).

Another potential problem is that in American cases tapes of crucial interrogations are sometimes 'lost', or that the first interrogation where the suspect's resistance is broken down is not recorded (Shuy, 1998). Not being able to listen to all the interviews may give a misleading picture of what really took place during the interrogation and prove prejudicial against the defendant.

The use of electronic recording of interrogations, whether audio or video recorded, is one of the best protections against wrongful convictions. However, it is not foolproof. No systems or safeguards are. Most importantly, it is potentially open to abuse and misinterpretation. This is particularly likely to happen when interrogations are selectively recorded, which is not uncommon practice in America. In other words, the interrogator only makes an electronic recording of the part of the interrogation that favours the prosecution (i.e. after the suspect has been broken down to confess and provides a post-confession statement). The danger here is that the recording will not give the whole picture of the interrogation process and may seriously mislead the court. It is essential that all interviews are properly recorded so that the court will have the best record possible of what took place during the interrogation. Otherwise it is open to abuse by the police and can mislead the court. Indeed, without a complete record, allegations of police impropriety (e.g. threats, inducements,

feeding suspects with pertinent case details) are difficult to prove or disprove. McConville (1992) gives an excellent illustration of two such cases.

The ultimate confession statement may look very convincing when taken out of context. It is typically highly prejudicial against the defendant and without the complete picture of how it came about the court may place too much weight on it. In other words, such statements have the potential of being seriously misleading to the court.

Another potential problem with electronic recording is that if police officers are no longer able to place suspects under pressure during tape-recorded interviews they may shift the pressure outside the formal interview. This may happen by officers informally interviewing suspects prior to their arriving at the police station (Heaton-Armstrong, 1987; Wolchover & Heaton-Armstrong, 1991), or in the police cell prior to or between interviews (Dixon, Bottomley, Cole, Gill & Wall, 1990).

Moston and Stephenson (1993) found evidence that in England interviews are commonly conducted prior to the formal interview, and this practice significantly influenced whether or not the suspect subsequently made a confession during the audio- or video-recorded interview. This demonstrates the great impact that pre-interview conversations can have on the likelihood that the suspect will subsequently confess. No doubt, many police officers will view this as a positive and legitimate way of 'getting to the truth' and will be tempted to resort to such behaviour in spite of the fact that they are in breach of their codes of practice. The problem is that without a proper record of these conversations or informal interviews there is no way of determining the tactics used by the police and how they may have influenced the voluntariness and reliability of the subsequent confession. In most instances no record is kept of these informal interviews, and when a record is kept it is typically unsatisfactory. Moston and Stephenson (1993) conclude

Encounters outside the police station are important for understanding why suspects make admissions inside the police station. Interviews inside the police station, either recorded or audio or video taped, contain only one part of the relevant exchanges between the suspect and police workers. The current legislation, by emphasising the importance of interviews inside the police station has resulted in a situation in which evidence gathered outside the station is seemingly of minimal value. It is widely assumed that the use of tape or video recording equipment inside the station gives a complete picture of the interview with a suspect. This assumption appears to be incorrect. The statements made by suspects on tape are the outcome of a series of conversations with police officers. The interview inside the police station is merely the final part of this process (p. 47).

THE CONTEXT OF THE INTERROGATION

The context in which the interrogation takes place and the conditions of detention can vary immensely. In some cases suspects are detained in custody, even incommunicado, for days. They may be physically exhausted, emotionally distraught and mentally confused when interrogated. With improved legal provisions in England and Wales stipulated in the Police and Criminal Evidence Act

(PACE; Home Office, 1985a) and the accompanying Codes of Practice (Home Office, 1985b, 1995) the police are obliged to follow certain stringent guidelines and procedures with regard to detention and interrogation. These are intended as important safeguards against police impropriety, false confessions and wrongful convictions. This includes restricting the length of time during which suspects can be detained without being formally charged and, while in custody, giving suspects sufficient rest between interviews. The physical and mental welfare of suspects is the responsibility of the duty 'Custody Officer'. The Custody Officer is also responsible for keeping a detailed, timed record, known as the 'Custody Record', of all important events surrounding the suspect's detention.

Even with markedly improved legal provisions for detainees, it is difficult to think of any custodial interrogation that is not potentially 'coercive'. Indeed, it is recognized by the United States Supreme Court that all custodial interrogations are 'inherently coercive' to a certain extent (for reviews see Ayling, 1984; Driver, 1968; Inbau, Reid & Buckley, 1986). This is because the interrogator is part of a system that gives him or her certain powers and controls (e.g. powers of arrest and detention, the power to charge the suspect, the power to ask questions and control over the suspect's freedom of movement and access to the outside world). Therefore, it is inevitable that there are certain 'coercive' aspects to any police interrogation. Not only is the inevitable 'coerciveness' associated with the nature and circumstances of the interrogation and confinement, but the characteristics of the detainee affect the extent to which his free will is likely to be overborne (e.g. *Schneckloth v. Bustamonte*, 412 US 218).

In *Miranda v. Arizona* (384 US, 436, 1966), which was decided by the US Supreme Court in 1966, the judges were particularly critical of the psychologically manipulative techniques recommended by the leading interrogation manual of Inbau and Reid (1962), which had substituted physical coercion with psychological coercion as a way of obtaining confessions from reluctant suspects (Leo, 1992).

Anxiety and Fear During Interrogation

Inbau *et al.* (2001) point out that signs of nervousness may be evident during interrogation among both innocent and guilty subjects. They list three reasons why innocent suspects may be nervous when interrogated:

1. they may be worried that they are erroneously assumed to be guilty;
2. they may be worried about what is going to happen to them whilst in custody and during interrogation;
3. they may be concerned that the police may discover some previous transgressions.

Inbau *et al.* speculate that the main difference between the anxiety (they use the word 'nervousness') of innocent and guilty suspects is the *duration* of the anxiety. That is, the anxiety of innocent suspects, unlike that of guilty suspects, diminishes as the interrogation progresses. There is no empirical support for this claim. This will undoubtedly depend on the nature of the interrogation

and custodial confinement, as well as on the mental state and personality of the suspect.

In the third edition of the book, Inbau, Reid and Buckley (1986) argued the main difference between guilty and innocent suspects related to the *degree* of anxiety rather than its *duration*. Innocent and guilty suspects both experience and exhibit signs of anxiety when interrogated, but the latter will experience a greater degree of anxiety, because they have committed an offence and really have something to worry about. This seems a reasonable assumption, because the lying of a guilty suspect is likely to generate its own anxiety. However, there is no doubt that for innocent suspects being wrongly accused of a crime, subjected to repeated challenges and not being believed can create severe anxiety of its own, which can be misconstrued as indications of deception.

Irving and Hilgendorf (1980) discuss in considerable detail the types of factor that may cause stress or anxiety in suspects during interrogation, irrespective of whether they are innocent or guilty of the alleged offence. Their work is particularly important because it relates experimental and laboratory findings to stressors that pertain to a police station.

Irving and Hilgendorf describe three general classes of stressors that are relevant to police interrogation situations:

1. stress caused by the physical environment at the police station;
2. stress caused by confinement and isolation from peers;
3. stress caused by the suspect's submission to authority.

Each of these classes of stressors can cause sufficient anxiety, fear and physiological arousal in the suspect to markedly impair his performance during interrogation.

The physical characteristics of the interrogation environment may cause anxiety and fear in some suspects. This is particularly true if the suspect has never been in a police station before so that the environment is unfamiliar to him. The more often a suspect has been in a police station on previous occasions, the greater the opportunity he has had for learning the rules of conduct of the setting. In addition, the more likely he is to know his legal rights (this may not always be the case: see Fenner, Gudjonsson & Clare, 2002). A familiar police environment is likely to be less stress-provoking than an unfamiliar one.

However, having been at a police station before is not always a stress-reducing factor, but this possibility is not discussed by Irving and Hilgendorf. Indeed, a stressful experience at a police station may result in psychiatric disability and could easily exacerbate the suspect's anxieties and fears when interrogated on a subsequent occasion (Gudjonsson & MacKeith, 1982). This happens when suspects have been so traumatized by the previous interrogative experience that their ability to learn constructively from it is adversely affected (Shallice, 1974).

Further types of stressor associated with the physical environment at the police station are *uncertainty* and *lack of control* over the environment. Suspects have little or no control over what is happening. If arrested, they cannot leave the police station until they are told that they are free to go. They cannot move freely within the police station, they are not free to obtain refreshments, make

telephone calls, receive visits or use toilet facilities without permission. They have limited opportunity for privacy, and indeed, interrogators may cause stress by positioning themselves very close to the suspect during the interrogation. Such invasion of the suspect's personal space can cause agitation and increased physiological arousal (Sommer, 1969).

As suspects have little or no control over the physical environment at the police station, they are inevitably faced with a number of uncertainties, which include uncertainties about the fulfilment of their basic needs, and not knowing how long they are going to be detained at the police station or what is going to happen to them. The timing and duration of the interrogation, confinement and social isolation from others, are very important factors which are discussed by Irving and Hilgendorf. Uncertainty is something which has been found to be stressful to suspects who are waiting at the police station to be interviewed (Gudjonsson, Clare, Rutter, & Pearse, 1993).

Irving and Hilgendorf argue that the inevitable subordination of suspects to police officers' authority, when detained at a police station, can cause considerable stress for the suspect. Irving and Hilgendorf point out an important parallel between experimental findings of obedience to authority (Milgram, 1974) and what may happen to suspects who are interrogated by the police:

... the parallel lies in the way both Milgram's subjects, and suspects in interrogation, are prone to obey instructions which they would ordinarily dismiss. Under certain conditions, the subject will, against his principles, inflict pain. Likewise, we would argue under similar conditions of obedience to authority, suspects will provide information or even confess, even though normally they would not do so because of the obvious negative consequences (p. 39).

Projects researching the effects of the historic decision in *Miranda v. Arizona* (383 US 436, 1966) indicate that interrogation may be so stressful to most suspects that it impairs their ability to exercise their powers of judgement and legal rights (Griffiths & Ayres, 1967; Leiken, 1970; Leo, 1994, 1996a, 1996b; Wald, Ayres, Hess, Schantz & Whitebread, 1967). Stress was assumed to be mainly caused by the fact that there was a great deal at stake for the suspects. Furthermore, all four studies showed that police interrogation techniques following *Miranda* are very subtle and persuasive and greatly influence the decision of suspects to incriminate themselves. Griffiths and Ayres (1967) give an example of the subtlety of the police questioning:

Often the pressure consisted of little more than reiteration by a detective of the same question several times alternated with small talk and appropriate urging (p. 313).

More recently, Leo (1996b) has gone even further and construes contemporary police interrogation as a confidence game:

Although interrogation is fundamentally an information-gathering activity, it closely resembles the process, sequence, and structure of a confidence game (p. 265).

The objective of the confidence game is to use subtle psychological strategies to get suspects to voluntarily waive their *Miranda* warning and then trick them into making a confession. The technique is allegedly so effective that

Most suspects who confess, however, do not appear to see through the con (p. 280).

Anger During Interrogation

Interrogation manuals generally acknowledge that anger, whether experienced by the suspect or the interrogator, is an undesirable emotion during interrogation as it inhibits constructive communication between the suspect and the interrogator. Rapport, trust and cooperation are generally considered to be essential components for the process of successful interrogation and feelings of anger and suspiciousness interfere with this process. There is some empirical evidence for this view. Gudjonsson (1989a) found that there was a negative relationship between suggestibility and anger and suspiciousness. In other words, people who were angry or suspicious when tested were less susceptible to giving in to leading questions and interrogative pressure.

In his survey of 100 British detectives, Walkley (1987) found that 42% claimed that failure to establish satisfactory rapport with a suspect by a previous interviewer had contributed to the suspect's denial. Once good rapport had been established with another detective the suspects confessed. This study supports the view that good rapport and trust are important components of the confession process.

An expression of anger among suspects during interrogation is often difficult to interpret, but an important difference is assumed to exist between guilty and innocent subjects. Inbau *et al.* (2001) point out that innocent suspects may be genuinely angry, and on occasions outraged, about being accused or suspected of a crime of which they are innocent. However, guilty suspects may on occasions pretend to be angry and their feigned anger may be difficult to differentiate from the genuine anger of innocent suspects. These authors argue that an important difference between the behavioural symptoms of anger among innocent and guilty suspects relates to the persistence and duration of the expressed emotion. Innocent suspects are assumed to persist with their anger over time, whereas guilty suspects will find it difficult to maintain the emotion over long periods of time. In other words, Inbau *et al.* speculate that the feigned anger among guilty suspects will subside more quickly than the genuine anger among innocent suspects. I am not aware of any published scientific study which provides empirical support for such differentiation between innocent and guilty suspects in their anger responses.

Impatience and anger among interrogators are likely to interfere with sound judgement and reasoning, which could result in unprofessional behaviour, such as the use of threats or violence. An arrogant attitude towards the suspect is a psychological characteristic which is considered to be highly undesirable during interrogation (Royal & Schutte, 1976). The reason is that, like anger and suspiciousness, it reduces the suspect's cooperation with the interrogation and makes him less receptive to the suggestions offered by the interrogator.

Desirable Attributes of the Interrogator

Inbau *et al.* (2001) list a number of indispensable attributes that make a good interrogator. They draw a distinction between the required personal qualities of *interviewers* and *interrogators*, but since both are normally conducted by the same investigator the qualities are presented together in this section. In terms of personal qualities, the following are most important in their view.

- Good intelligence.
- Good understanding of human nature.
- Ability to get on well with others.
- Patience and persistence.
- A good listener (this applies particularly to interviewers).
- A good communicator (this applies principally to interrogators, who are less interested in listening and more actively involved with persuasion to break down resistance).
- A high degree of suspicion (i.e. it makes the interrogator actively look for deception).
- Even temperament and good emotional control.
- Good inner confidence in the ability to detect deception.
- Feeling comfortable with using persuasive interrogation techniques, which may be considered morally offensive by other investigators.

In addition, the interrogator should be interested in police interrogation and needs to study the range of tactics and techniques. He or she should be familiar with new developments in the art of interrogation and be aware of the laws and regulations that govern interrogation procedures. An understanding of the psychological principles and theories of interrogation and confessions is considered very important. In particular, a good understanding and insight into signs of deception, including non-verbal cues, is considered essential. This is because the effectiveness of interrogation tactics and techniques is largely based on the ability of the interrogator to detect defensiveness, evasiveness and various forms of deception, and turn these to their advantage in breaking down resistance.

Interestingly, in contrast to what would normally be considered as good interviewing practice, the interrogation techniques advocated by Inbau and his colleagues rely on frequent interruptions by the interrogator as a way of feeding the suspect with themes and breaking down resistance (this of course does not apply to their pre-interrogation interview and only to the interrogation proper). The reason for this is that by this stage the interrogator is not interested in what the suspect has to say unless it agrees with the interrogator's scenario. The interrogator has already decided, on the basis of the pre-interrogation interview, that the suspect is guilty or very probably guilty. What remains is to persuade the suspect to confess and give a written confession. No listening is required until a confession is forthcoming.

Inbau *et al.* make the interesting and valuable point that interrogation is a highly specialized area of police work and the qualities that make a good interrogator may not necessarily be the same qualities as those that make a good

investigator. They quote, as an example, that impatience may be an advantage for investigators in completing certain assignments, but it is a handicap when interrogating people. These authors argue that interrogation should be a specialism within police departments, implying that investigators, as a rule, should not interrogate suspects. They argue that increased specialism is likely to increase the number of confessions obtained from criminal suspects, the confessions are more likely to meet the necessary legal requirements and innocent suspects would be more expeditiously and reliably identified.

The Physical Environment of the Interrogation

There are a number of physical features associated with the police interrogation and confinement environment that can have major effects on the way suspects react to police interrogation. Inbau *et al.* (2001) describe various ways in which the physical environment can be deliberately arranged to maximize the likelihood that the suspect will confess. These include isolating the suspect from outside influences, making sure that there are no objects in the interrogation room that can distract the suspect's attention, sitting close to the suspect, and having colleagues surreptitiously observing the interview behind a one-way mirror for suspects' signs of vulnerabilities.

An excellent experimental illustration of the powerful emotional reactions of normal and healthy individuals to custodial confinement is seen in the classic study of Haney, Banks and Zimbardo (1973). Twenty-one Stanford University students were assigned to either a 'guard' or a 'prisoner' condition in a simulated prison environment. The purpose of the study was to analyse closely the behaviour and reactions of the two experimental groups to the respective roles over a two week period. The study had to be terminated after six days because of the severe distress and emotional disturbance of about half of the 'prisoners'. This was in spite of the fact that all the subjects had been carefully selected for the study because of their emotional stability. The typical reactions of the 'prisoners' comprised 'passivity, dependency, depression, helplessness and self-deprecation' (p. 89). The relevant processes that brought about these reactions were described by the authors as

1. 'loss of personal identity' (i.e. loss of recognition of one's individuality and privacy);
2. 'arbitrary control' (i.e. the arbitrary and often unpredictable exercise of power and control by the 'guards');
3. 'dependency and emasculation' (i.e. being dependent on the 'guards' for exercising basic human activities).

The limitation of this study relates to the fact that the 'guards' were role-playing what they construed as typical prison officers' behaviour, rather than exhibiting behaviour which happens in a real-life 'prison'. Nevertheless, what is interesting was the apparent ease with which even stable individuals become immensely distressed by 'prison' confinement.

Irving (1980), in an observation study, emphasized the importance of the physical environment in influencing the decision-making of suspects. The

factors he considered important included unfamiliarity with the physical environment of the police station, the effect of confinement on 'under-arousal', and the absence of control that the suspect has over the physical environment.

The ways in which the physical environment can affect the physiological state of suspects whilst they are in police custody have been discussed in detail by Hinkle (1961) and Shallice (1974). Social isolation, sensory deprivation, fatigue, hunger, the lack of sleep, physical and emotional pain, and threats are all factors that can powerfully influence the decision-making of suspects and the reliability of their statements. According to Hinkle (1961), these factors commonly result in impaired judgement, mental confusion and disorientation, and increased suggestibility. He concludes by stating

Most people who are exposed to coercive procedures will talk and usually reveal some information that they might not have revealed otherwise (p. 44).

However

... the personality of a man and his attitude toward the experience that he is undergoing will affect his ability to withstand it (p. 33).

In my own experience of assessing defendants for a pre-trial examination, many complain of having had insufficient sleep prior to the interrogation. They often claim that this seriously impaired their ability to cope with the demands of interrogation. There is considerable evidence that a lack of sleep impairs mental functioning, especially if it continues for two or three days (Hinkle, 1961; Mikulincer, Babkoff & Caspy, 1989). Loss of sleep is associated with increased circadian oscillations (i.e. heart rate irregularity), lack of motivation to initiate and perform tasks, attentional problems, cognitive confusion and slowness of thought (Mikulincer, Babkoff & Caspy, 1989). The peak hours for reported problems occur between four and eight a.m. There is also empirical evidence that people deprived of sleep are significantly more suggestible, as measured by the Gudjonsson Suggestibility Scale, than normal controls (Blagrove, Cole-Morgan & Lambe, 1994). The degree of suggestibility increases with the amount of sleep deprivation (Blagrove, 1996). This indicates that sleep deprivation impairs the person's ability to resist leading questions and interrogative pressure. It explains why sleep deprivation is apparently effective in breaking down suspects' resistance during interrogation.

AMERICAN RESEARCH ON INTERROGATION

In Chapter 2 a number of British studies into interrogation techniques will be reviewed. In fact, most of the observational research into interrogation techniques has been conducted in Britain. In contrast, as noted by Leo (1996a), American researchers have largely failed to directly observe custodial interrogations. Apart from Leo's own research (1992, 1994, 1996a) there have only been two previous American observational studies (Milner, 1971; Wald *et al.*,

1967) into police interrogations. Both studies focused principally on the effects of *Miranda* warnings on confessions, and these will be discussed in Chapter 6. In contrast, Leo's research describes the interrogation techniques used and process of the interrogation. I shall briefly describe this unique American study in this chapter.

Leo (1994, 1996a) describes his analyses of the interrogations of 182 suspects at three police departments. Most of the cases ($N = 122$, 67%) involved Leo sitting in on the interrogations in a major urban police department and contemporaneously observing the interrogation tactics used and the suspects' reactions. Unfortunately, he was excluded from being present in some of the more serious cases, which means that he was not able to select randomly the cases he observed. In order to compensate for this methodological limitation Leo analysed 60 tape-recorded interrogations from two other police departments where he had specifically requested videotapes of interrogations involving serious felony crimes (e.g. homicide, rape, assault). The total sample was comprised of robbery (43%), assault (24%), homicide (12%), burglary (12%) and various other crimes (9%).

The great majority (87%) of the suspects had previous criminal convictions and had therefore had some prior experience with the criminal justice system. As far as the current offence was concerned, Leo estimated that in about one-third of the cases (33%) the strength of the evidence against the suspect was weak (i.e. highly unlikely to lead to a charge). In a further 32% of cases, the evidence was moderately strong (i.e. probably likely to lead to a charge), and in the remaining 35% of cases the evidence against the suspect was strong (i.e. highly likely to lead to a charge).

Leo identified 24 interrogation tactics used by the police. The 12 most commonly used tactics, and the percentage of cases where it was used for each tactic, were as follows.

1. Appeal to the suspect's self-interest (88%).
2. Confront suspect with existing evidence of guilt (85%).
3. Undermine suspect's confidence in denial of guilt (43%).
4. Identify contradictions in suspect's story (42%).
5. Any Behavioural Analysis Interview question (40%).
6. Appeal to the importance of cooperation (37%).
7. Offer moral justifications/psychological excuses (34%).
8. Confront suspect with false evidence of guilt (30%).
9. Use praise or flattery (30%).
10. Appeal to the detective's expertise/authority (29%).
11. Appeal to the suspect's conscience (23%).
12. Minimize the moral seriousness of the offence (22%).

Many of the tactics were used in combination, with several tactics being used during each interrogation. The average number of tactics per interrogation was 5.6. According to Leo, interrogators typically began by confronting the suspect with the evidence against him, followed by implying his guilt and then undermining his denial of involvement in the offence, while identifying contradictions in the suspect's story or alibi, appealing to his self-interest and conscience and

providing moral justifications and psychological excuses. This suggests a combination of tactics, which resulted in 41.8% of the suspects making admissions (i.e. admitted at least to some of the elements of the crime), and a further 22.5% provided self-incriminating statements while not directly admitting to the crime. This means that 64% of the suspects provided self-incriminating statements, which could be used against them in court.

Leo concludes that the four most successful interrogation tactics in terms of obtaining a confession were the following (The success rate for each tactic is in parenthesis).

1. Appeal to the suspect's conscience (97%).
2. Identify contradictions in suspect's story (91%).
3. Use praise or flattery (91%).
4. Offer moral justifications/psychological excuses (90%).

The greater the number of tactics used and the longer the duration of the interrogation, the significantly more likely the suspect was to make a confession. Interestingly, most of the interviews (70%) were completed within one hour and only eight per cent lasted more than two hours. As far as coercive interviewing is concerned, Leo found that coercion was present in only four (2%) of the cases. He used ten conditions as possible indicators of coercion, and at least one had to be present for the interrogation to be deemed coercive. These included failure of the police to issue the *Miranda* warning, the use of threats and inducements, unrelenting and hostile questioning, the interrogation lasting more than six hours, and the suspect's will being overborne by some other factor or combination of factors.

In terms of the outcome of cases within the criminal justice system, suspects who gave self-incriminating statements to the police were 20% more likely to be charged than the other suspects, 25% more likely to plea bargain and 26% more likely to be convicted. This gives strong support for the view that self-incriminating statements are important in determining the outcome of the case. Once a confession is made the negative outcome for the suspect is likely to be greatly enhanced.

The main conclusions from this study are that police officers typically employ *some* of the techniques recommended by Inbau, Reid and Buckley (1986), these techniques can be highly effective in obtaining confessions, they rarely amount to coercive questioning as defined by Leo and the self-incriminating statements obtained during interrogation significantly affect the outcome of the case in terms of an increased likelihood of being charged, and convicted. In view of the inherently coercive nature of the Reid Technique of interrogation, the low level of coercion observed by Leo is noteworthy. One would have expected a much higher level of coercion. There could be a number of explanations for this. First, Leo was excluded from observing the most serious cases, where coercion was more likely to be present, and he was not able to select cases at random. Second, Leo's presence during the interrogation may have resulted in less coercive tactics being used by the police than would otherwise have been the case. Third, the 60 video-recorded interrogations may not have been randomly selected by the police. Fourth, Leo's criteria for defining coercion may have been

too stringent. The alternative, of course, is that the most coercive components of the Reid Technique are not commonly practised in the police districts where the study took place.

Unfortunately, Leo does not present data on how many of the suspects confessed at the beginning of the interrogation, and what proportion confessed due to persuasive police interrogation after making an initial denial.

HOW THINGS CAN GO WRONG DURING INTERROGATION

The main purpose of interrogation is to gather valid information and factual accounts from suspects in an ethical and legally accepted fashion. The purpose, scope and nature of the interview will depend on the circumstances of the case and who is being interviewed. Often suspects are unforthcoming with the relevant information that the police require and remain deceptive, evasive and defensive. When this is the case the police may need to be persuasive in their questioning in order to obtain a complete and truthful account of events. The extent to which the police can legally use psychological pressure and manipulation varies from country to country, and even within a given country this may vary over time (Gudjonsson, 1995a; Conroy, 2000).

Police interrogation can go 'wrong' in the sense that it results in 'undesirable consequences' for the criminal justice system or the suspect (Gudjonsson, 1994c). There are a number of ways in which this can happen and I shall discuss these briefly below.

1. *False confessions due to coercion.* False confessions can happen when police officers wrongly assume that the suspect is guilty (e.g. by their having blind faith in their ability to detect deception through non-verbal signs) and feel justified in coercing a confession from the suspect. This is not to say that false confessions do not happen without coercion or police impropriety. In fact, it will be shown in later chapters that they do. However, the greater the pressure suspects are placed under during interrogation the greater the likelihood that false confessions will occur. My concern is that some police officers have blind faith in their ability to detect deception, and the interrogation manual by Inbau *et al.* (2001) encourages such a myth. The empirical evidence clearly shows that non-verbal signs are unreliable indicators of deception (Ekman, 1992; Kassin & Fong, 1999; Vrij, 2000, 2001), although recent research into micro-momentary facial expressions of emotions are looking promising for the future (Frank & Ekman, 1997; Stubbs & Newberry, 1998).
2. *Inadmissible confessions.* When confessions are coerced by the police there is a risk of the evidence being ruled inadmissible when the case goes to court, even if the confession is true. Confessions are commonly disputed in court and if it can be proved that the confession was obtained by police impropriety and or coercion then it is of no evidential value. Obtaining a confession should not be viewed as a substitute for a good criminal investigation.

3. *Coerced confessions resulting in resentment.* There is considerable evidence that coercive and manipulative interrogation techniques, such as those recommended by Inbau *et al.* (2001), often cause resentment and bitterness among offenders, which may last over many years (Gudjonsson & Bownes, 1992; Gudjonsson & Petursson, 1991; Gudjonsson & Sigurdsson, 1999). Suspects do resent being tricked, deceived and coerced by the police and this may influence how likely they are to dispute the confession when their case goes to court. In contrast, when offenders confess because the other evidence against them is strong and where they have an internal need to confess, they view their confession more favourably (Gudjonsson & Sigurdsson, 1999).
4. *Coercion resulting in post-traumatic stress disorder.* Studies into the psychological effects of torture (e.g. Basoglu *et al.*, 1994; Daly, 1980; Forrest, 1996; Gonsalves, Torres, Fischman, Ross & Vargas, 1993), show that many survivors suffer from post-traumatic stress disorder (PTSD). I am not aware of any similar research being conducted into the psychological effects of police arrest, confinement and interrogation. However, a study of the interrogation techniques of the British police officers in Northern Ireland in the early 1970s indicated that some detainees suffered from PTSD as a result of their ordeal (Shallice, 1974). Similarly, Hinkle (1961) has argued that harsh interrogation techniques can cause serious mental disturbance in some suspects.

Undoubtedly, being arrested, detained and interrogated is a very stressful experience for some suspects. Gudjonsson *et al.* (1993) found that about 20% of suspects detained for a police interview scored abnormally high on the Spielberg State Anxiety Inventory (Spielberger, 1983). In addition, a clinical interview indicated that about one-third of the suspects were in an abnormal mental state which might have interfered with their ability to cope with the interrogation.

How suspects may be traumatized by being arrested, detained and interrogated, and the long-term sequelae of the experience, are unknown. Gudjonsson and MacKeith (1982) discuss two cases where suspects had been traumatized by being arrested by the police and interrogated. In such cases it is difficult to separate the individual effects of the arrest, confinement and interrogation. The humiliation of being arrested and detained may be sufficient to cause post-traumatic stress disorder in vulnerable individuals (Gudjonsson, 1996b). This can be illustrated by two cases seen by the present author. Both individuals, a man and a woman, were perfectionists and their identity was very much associated with being honest and respected. Neither person was charged with any offences by the police, but they were arrested and kept in custody for several hours before their innocence was established. The feeling of shock and humiliation associated with the arrest and confinement resulted in persistent symptoms which were consistent with post-traumatic stress disorder (PTSD). In other cases it was the police interrogation itself which resulted in PTSD. For example, two alibi witnesses to a major crime were pressured and threatened by the police to alter their evidence, which they resisted. Both subsequently

experienced major problems with intrusive thoughts and other symptoms of PTSD concerning the police interrogation, which lasted for several years before they sought treatment.

5. *Undermining public confidence*. Leo (1992) suggests that coercive and manipulative police interrogation techniques may undermine the public confidence in the police and encourage police corruption. Indeed, there is evidence that in England a series of miscarriage of justice cases involving coerced confessions have undermined the public faith in the police and the judiciary as a whole (*Royal Commission on Criminal Justice Report*, 1993; Williamson, 1994). Such a situation may make jurors highly sceptical of police and confession evidence and increase the acquittal rate (Robbins, 2001, 2002).
6. *The 'boomerang effect'*. Coercing suspects to confess may sometimes result in the opposite effects intended by the police. Thus, suspects who would have confessed in their own time refuse to confess when they feel they are being rushed or unfairly treated by the police. In other instances, suspects who have already confessed may retract their confession when they feel they are pressured too much to provide further information.

These phenomena can be explained in terms of 'reactance theory' (Brehm, 1966; Brehm & Brehm, 1981). That is, when people perceive that their freedom to choose or act is threatened they may respond by becoming increasingly assertive. In exceptional cases this may result in the so-called 'boomerang' effect. This means that people may not only become less suggestible and compliant when pressurized, but they take the *opposite* view to that communicated by the interrogator (i.e. they react in an extremely resistant way). Gudjonsson (1995b) discusses how this can happen in real life police interrogations when suspects feel they have been pressured too much. The consequences may be devastating for the police when the case goes to court and judges rule the confession statement as being inadmissible.

CONCLUSIONS

The techniques recommended in police interrogation manuals, such as that of Inbau *et al.* (2001), are based on 'psychological principles' that undoubtedly can be immensely effective in influencing the beliefs and decision-making of suspects during interrogation. What we do not know is the rate of '*true*' and '*false*' confessions elicited, respectively, and how these rates compare with less coercive techniques. The basic ingredient of the techniques involves the interrogator being able to 'read' the signs of suspects' lying and 'guilt', which forms the justification for manipulating them into confessing by playing on their vulnerabilities and using trickery and deceit. The main persuasive ingredients involve exaggeration or misrepresentation of the evidence against the suspect ('maximization') and theme development ('minimization'). The interrogator suggests various 'themes' to the suspect which are aimed at minimizing either the seriousness of the crime (e.g. pretending it was an accident, committed

in self-defence, or unintentional) or the responsibility for it (e.g. blaming the victim or circumstances). The potentially most dangerous part of the Reid Technique relates to suspects being pressured to choose between two incriminating alternatives, one with obviously very serious consequences and the other with more ambiguous, and by implication, less serious consequences (i.e. that the act was an unintentional, accidental, self-defence).

There are potential problems with these techniques. The first relates to the nature and extent of psychological coercion involved. There is no doubt that these techniques are inherently coercive in the sense that their objective is to overcome the suspects' resistance and will-power not to incriminate themselves. In other words, suspects are manipulated and persuaded to confess when they would otherwise not have done so.

It is, of course, perfectly true that no police interrogation is completely free of coercion, nor will it ever be. Furthermore, a certain amount of persuasion is often needed for effective interrogation. The real issue is about the extent and nature of the manipulation and persuasion used. What is legally allowed varies from country to country, between different jurisdictions, and within jurisdictions over time.

Another problem relates to ethical and professional issues. Many of the tactics and techniques recommended encourage the police officer to employ trickery, deceit and dishonesty. Although such measures are commonly allowed in American courts, they raise very serious questions about the ethical nature of this form of interrogation. Public awareness of this kind of police behaviour must inevitably undermine the public's respect for the professionalism of police officers. Deception and trickery will also cause resentment among suspects and are likely to increase the likelihood that the confession will be disputed at trial.

Innocent suspects may be manipulated to confess falsely, and in view of the subtlety of the techniques utilized innocent suspects may actually come to believe that they are guilty. Inbau *et al.* state that their techniques, when applied in accordance with their recommendations, do not result in a false confession. This is simply not true. There is ample evidence that their advocated techniques do on occasions lead to false confessions. How often this happens we do not know. Their failure to accept the possibility that false confessions can occur shows either a limited insight into the potentially deleterious effects of their techniques, or reluctance to face the reality that their recommended techniques do on occasion result in false confessions.

Finally, all police manuals are based on experience rather than objective and scientific data. Experience is invaluable to police work and its usefulness is illustrated by the effectiveness of the techniques recommended. However, relying solely upon experience in determining procedure may create serious pitfalls (e.g. untested assumptions) and fail to bring to light important facts about human behaviour, such as the susceptibility of some suspects to give erroneous information when placed under interrogative pressure. What is needed is more research into the effectiveness and pitfalls of different interrogation techniques.