

INTERROGATION

ABOUT THE AUTHOR

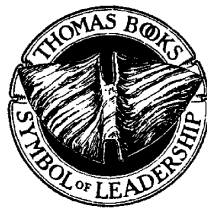
Charles L. Yeschke has been a polygraphist and law enforcement instructor for over forty years. He has worked for the CIA and FBI in these capacities, and has been a private investigator in Minnesota since 1978. His detection of deception services have been used by hundreds of police organizations, government agencies, prosecuting attorneys, and defense attorneys. He has provided polygraph examinations in thousands of investigative matters since 1962, and has conducted polygraph examinations in highly sensitive private and police inquiries. As a Detection of Deception Examiner, and as a Private Investigator, he has testified as an expert witness in federal, state, and local courts, and thousands of individuals have attended training he has presented to a variety of organizations, including federal, state, and local agencies; law enforcement agencies; Fortune 500 companies; banks; universities; and others. Mr. Yeschke is a Charter Member of the American Polygraph Association who is the inventor of the Polygraph Respiration Attachment (P.A.D.) and the Polyphasic Flow Chart, and is the author of numerous articles on polygraphy, negotiation, interviewing, and interrogating, as well as of several books in these areas. His books include *Interviewing: An Introduction to Interrogation* (Charles C Thomas), *Interviewing: A Forensic Guide to Interrogation* (Charles C Thomas), *The Art of Investigative Interviewing: A Human Approach to Testimonial Evidence* (Butterworth/Heinemann). He has been quoted in television news programs, as well as in various news publications. Mr. Yeschke has a B.S. degree in Law Enforcement/Police Administration from Michigan State University. His complete curriculum vitae may be found at www.yeschke.com.

INTERROGATION

Achieving Confessions Using
Permissible Persuasion

By

CHARLES L. YESCHKE



CHARLES C THOMAS • PUBLISHER, LTD.
Springfield • Illinois • U.S.A.

Published and Distributed Throughout the World by

CHARLES C THOMAS • PUBLISHER, LTD.
2600 South First Street
Springfield, Illinois 62704

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ISBN 0-398-07494-1 (hard)
ISBN 0-398-07495-X (paper)

Library of Congress Catalog Card Number: 2003070325

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*Printed in the United States of America
SM-R-3*

Library of Congress Cataloging-in-Publication Data

Yeschke, Charles L.

Interrogation : achieving confessions using permissible persuasion / by
Charles Yeschke.

p. cm.

Includes bibliographical references and index.

ISBN 0-398-07494-1 (hardback) -- ISBN 0-398-07495-X (pbk.)

1. Police questioning--United States. 2. Interviewing in law enforcement--
United States. 3. Criminal investigation--United States. I. Title.

HV8073.Y467 2004
363.25'4--dc22

2003070325

This book is dedicated to my mentor, John E. Reid, who developed advanced ways of seeking the truth. Mr. Reid was a pioneer in the detection of deception. His control question technique is now the basis of modern-day forensic psychophysiological detection of deception.

MISSION STATEMENT

This text is intended to help those who want to become better at interrogating and for those who are brave enough to venture into that scary part of investigating. There are but a few investigators who are comfortable gaining confessions or admissions from the culpable. As it is with most skills, where personal motivation is the key element to improvement, interrogating requires dedication and focus to break out of mediocrity. All I can do is present you with some hints as to how you may reach a higher level of skillfulness as an interrogator. The perseverance is left to you.

PREFACE

If we consider historical works as sources of information, and not as philosophical or religious teachings, we can use such sources to look more closely at human behavior. Everyone has the free will to select or not select to use religious teachings. The following observation is not offered as a religious teaching, and there certainly is no intention to offend anyone. Instead, I use the following as a starting point for a discussion of the fundamental roots of interrogation.

Hence, I observe that, apparently, the Garden of Eden may have been the first place where interrogation took place. Reportedly, God told Adam not to eat from the Tree of Conscience, because, if he did so, he would become aware of right and wrong, good and bad. God created a woman to be Adam's wife. Neither Adam, nor his wife, Eve, were embarrassed or ashamed, even though they were naked. The crafty serpent convinced Eve to eat the fruit from the Tree of Conscience. The serpent pointed out how lovely and fresh looking the fruit was, and, that by eating the fruit, Eve would become wise. She ate some of the fruit and gave some of that fruit to her husband to eat. They suddenly became aware of their nakedness, and were embarrassed. They hid from God when he entered the garden because they were embarrassed about being naked. God noticed they were hiding and asked: "Why are you hiding?" Adam replied, "I heard you coming and didn't want you to see me naked. So I hid." God asked: "Who told you that you were naked? Have you eaten fruit from the tree I warned you about?" "Yes," Adam admitted, "but it was the woman you gave me who brought me some, and I ate it." Then God asked Eve: "How could you do such a thing?" She replied: "The serpent tricked me."

Deductive reasoning, apparently, brought God to the conclusion that Adam had eaten fruit of the Tree of Conscience; otherwise, how

would Adam know of his nakedness? God confronted Adam. Adam admitted his culpability but blamed his wife for offering the fruit to him, which he ate. Even though he knew not to eat from that tree, he did. Did he eat the fruit to fulfill a social need of belonging and/or intimacy? And, after all, God gave the woman to Adam, so isn't God somewhat to blame for the woman's behavior? Why didn't God tell Eve not to eat of the fruit? Or possibly, Adam, knowing better, acted much as a child seeking autonomy, doing what he wanted when he wanted and gaining power over himself and the things around him.

Seemingly disappointed, God confronted Eve, who blamed the serpent for tricking her into eating the fruit. Possibly, Adam did advise Eve not to eat of the Tree of Conscience and she didn't take him seriously. Let us not forget that God instructed Adam about not eating the fruit before God created woman. It seems that God relied on Adam to inform the woman not to eat of the tree. Maybe Adam did not clearly advise the woman about the tree and its dangers. Or, maybe he did tell her of the restriction and, she, too rebelled against the prevailing rule of God. Let's not forget the serpent's role in all of this.

We might say that the above-mentioned biblical account is illustrative of interrogation and its relationship to human behavior. Apparently, rationalization and face-saving started a long time ago, as did deductive reasoning and getting at the truth by asking questions.

This book explores practical and legal tactics of interrogation by which to seek a difficult target: the truth. While hunting for the truth, it is necessary to watch for and study the verbal and nonverbal responses of both interviewees and interrogatees to dissect and contemplate what makes people do what they do. Your honorable crusade to learn why people confess will cause you to delve into the depths of the human soul. This campaign will help you become wiser and of greater service to your community. Fear not! Hesitate not! Your quest is worthwhile. The goal of interrogation is to persuade the culpable to confess or to reveal information that may be the equivalent of a full confession.

Charles L. Yeschke
Minneapolis, 2003

INTRODUCTION

Some critics say that using interrogation tactics to take advantage of inexperienced and ignorant subjects is not dignified behavior. I am convinced that by using neutral, courteous, polite procedures to outwit culpable subjects, an interrogator's effectiveness is increased. Of course, if a subject is innocent, such procedures will also reveal that truth. We need to recognize that there is some good in everyone, and using this realization gives good advantage during interrogations. We can then take satisfaction in having the ability to achieve confessions and admissions that are provided knowingly, intelligently, and voluntarily.

It is unreasonable to give culpable subjects a sporting chance during interrogations. I cannot think of any circumstances that would justify a culpable individual being on an even footing with investigators. Yes, investigators do manipulate vulnerable culpable subjects, but taking such action does not mean that those subjects are caused to make false confessions. On the contrary, a properly trained professional interrogator using ethical methods, such as those suggested herein, is mindful of the necessity to be careful not to promote false confessions from psychologically vulnerable individuals. I affirm tactics such as playing on a subject's human needs, which render it difficult for culpable subjects to make rational, responsible choices to avoid responsibility. Further, in my view, it simply is not logically offensive to take advantage of culpable individuals. As long as I treat subjects compassionately, without using duress and or coercion, I am respecting their human dignity even though I may use trickery and deceit to attain their confession. Lying and deception by investigators during interrogations have always been difficult issues without definite answers.

Black's Law Dictionary defines a confession as a statement by which a subject acknowledges himself to be culpable of the offense

charged and discloses the circumstances of the act or the share and participation that he had in it. An admission is defined as the acknowledgment of a fact or of circumstances from which culpability may be inferred, but not a confession of culpability. Apparently, no effective distinction can be made between confession and admission. Because virtually all confessions probably contain at least some minor deviation from the truth, it could be argued they are transformed into admissions.

Based on my experience, a confession is a voluntary statement in which a person concedes committing wrongdoing or having assisted in its commission. It will contain most, if not all, of the elements vital to proving a person culpable.

An admission, too, is a statement, but one that does not contain all of the acknowledged or admitted facts from which culpability may be inferred. It is a direct or implied statement of facts pertinent to the matter under investigation. If it is considered with other facts as related to the relevant circumstances, such statements may imply culpability. Depending on the circumstances, I believe admissions are equivalent to confessions.

A confession, to be admissible in court, has to be voluntary and trustworthy. To be voluntary, a confession or admission must be made willingly. It is intentional, deliberate, and not coerced in any way. To be trustworthy, a confession ought to be characterized by integrity and frankness. Hence, for a confession to be admissible, it is required to be provided knowingly, intelligently, and voluntarily.

What follows is a guide to assist interrogators in attaining legally acceptable confessions and admissions, and resolving some of these “gray area” issues in a reasoned, humane way.

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INTERROGATION

Chapter 1

ROAD MAP

A road map to the truth can be difficult to read. As with most road maps, there are signs, symbols, and signals that can be misleading to a new traveler. There is no easy way to teach how to travel that rough road called interrogating. The goal herein is to explore various elements of a cohesive method of interrogating. I have successfully used a unified system for over forty years that I have applied in thousands of inquiries. My method has been reviewed by various courts and found not to contain psychological coercion (a complete example of such a case is included as Appendix A in Chapter 9). Part of my approach is made up of a type of skeleton, a backbone, so to speak. This functional, adaptable, and extremely useful technique has been used in some of the most secret national espionage matters. I have adapted my process to investigations involving murders, rapes, and other investigative issues. It can be the foundation for inquiries of all kinds, including fraud and embezzlement matters.

In this presentation, my road map for interrogating will be reviewed in its many facets as generally related to specific matters. Each inquiry brings with it particular details, facts, and information, which make each unique in its own right. I consider such data to be the so-called meat to be applied to the bones of the investigative skeleton. For example, if we are investigating a bank robbery, the meat for the bones of that type of inquiry is typically specific to that type of theft. The technical details related to the bank inquiry are unique to such investigations and are, obviously, different from those related to rape, or espionage investigations. So, each inquiry, of any kind, has similar underpinnings with unique and specific differences reflected in

their circumstances. With the system suggested in this presentation, and with your imagination, you can resolve investigative challenges. The balance of this chapter is a guide to the other chapters in this book. You can use this guide to find topics of particular interest to you, as well as to get a quick overview of the facets of an interrogation method that has repeatedly proven successful in obtaining confessions.

Chapter 2 mentions John Rawls and his philosophical influence upon society. Those views complement my own in that they show a compassion for people. It is not the political stance presented by Rawls that is intriguing or promoted herein, but what is promoted is his observation that all of mankind deserves fair treatment and is worthy to be acted toward with compassion. Those who feel doomed, unlucky, or in culpable circumstances seek offers of rationalization and face-saving assistance as they contemplate and try to solve life's problems. Rawls knew that most of mankind is trying to find a type of forgiveness pertaining to the wrongs they have done. He echoes my view of mankind and its related needs.

Further, without writing a complete work dealing with the Sixth Amendment and its influence on interrogating, I have, in part, referred to how the Constitution impacts on the conduct of interrogations. How to outsmart culpable individuals in legal ways is the objective of this writing, rather than studying specific laws that regulate doing so. Comprehending related laws is vital, and functioning by the rules is essential to professional investigators.

Chapter 3 reflects elements of the Polyphasic Flow Chart and related topics, which are interrelated between interviewing and interrogating. A foundation for interrogating is built from the beginning of the investigative interview. It is not that an accusation is made in the interview, but a base is laid upon which an interrogation can subsequently be built if needed. All of the elements developed in the interview are needed in the interrogation. Elements, such as rapport, active listening, and the self-fulfilling prophecy introduced during interviewing are intended to subtly carry over into interrogating.

Chapter 4 deals with difficult interviewees or subjects with regard to whom seeking the truth can be most difficult for the investigator. Considering personality characteristics of such difficult interviewee types may assist in comprehending how to persuade them to divulge the truth. Of those difficult types, psychopaths may create the most challenge because they have no conscience. A rather lengthy explo-

ration of psychopaths in this chapter is intended to assist the learner to realize that psychopaths are unique among human beings. They are so much unlike the typical investigator in psychological makeup that dealing with them may be extremely thorny or awkward.

Chapter 5 considers interview question formulation, which is such a critical assignment because many investigators fall into a trap sprung upon them by the cunning delinquent intellectually dancing around the inquiry. So tuned in are some interviewees that they can endure an interview without giving up vital information.

Chapter 6 explores how the Self-Fulfilling Prophecy (SFP) is a major element of interviewing and interrogating, which, if applied with confidence, can render the inquiry a success. Working in conjunction with that prophecy are support elements such as patience, active listening, and intuition to encourage the truth to come out.

Chapter 7 looks at aspects of the detection of deception that have always been an overwhelming task in every stage of history. It is only during the past 70 years, or so, that we have had a reasonably good chance of determining whether or not a person is truthful. This chapter considers aspects of the detection of deception and its relationship to interrogating.

Chapter 8 ponders how to smoothly transition from an interview to an interrogation once you have made up your mind that the interviewee is culpable. At this point, the interviewee becomes the subject, and your goal becomes to obtain a self-incriminating confession.

Chapter 9 reviews the basic considerations and techniques of interrogating that can be applied to any interrogation. This chapter echoes the themes running throughout the book. These are that abuse of the subject is not only illegal, but also does not yield the kind of trustworthy confessions you are seeking; that it is important that you be confident and vigilant in your approach; that you may have to try several approaches, and then repeat them to see if they are successful; that it is vital that you assist the subject to rationalize and save face; that you carefully observe and become knowledgeable of human nature so as to tap into the subject's possible latent urge to confess.

Chapter 10 contemplates how interrogation tactics are face-to-face means by which to encourage culpable subjects to admit or confess responsibility. In the hands of skillful investigators, a certain course of action can logically work to assist the interrogatee to confess. It is not merely the approach used; it is how to apply that approach as related

to the dynamics of human communication.

Chapter 11 scrutinizes elements of actual, real-world confessions as representing my investigative experience. But, let us not forget the category of false confessions. It is understandable that, because of certain unfortunate circumstances, false confessions do take place. Because of coercion, abuse, and so forth, some nonculpable people feel compelled to confess falsely. Yes, our court system does guard against admitting false confessions into court; however, I believe investigators also have responsibilities to be vigilant against that happening.

Chapter 12 deals with one of the most difficult topics for investigators to work with—sexually related offenses. Those can cause the most seasoned investigators to back away and become confused. Numerous sexual abuse matters are studied in this presentation for that reason. Although some of us may not ever become comfortable in handling such cases, we ought to at least try. It is with trying that we learn and become moderately comfortable. Victims deserve our best effort. Who else stands up for them if not the skilled investigator?

Chapter 13 delves into a bank theft investigation using the Polyphasic Flow Chart as a backdrop to give you insight regarding the elements involved. This study illustrates how the Polyphasic Flow Chart fits into this inquiry and points up how the Chart might be used in other investigations. Because crimes dealing with personal injury and damage to property consume most of the investigator's time, this bank study is offered for review. Since white-collar crimes still seem to be out of bounds to many investigators, more and better training ought to be provided for them to be able to successfully handle fraud and embezzlement cases.