

# The techniques of police interviewing criminology essay



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## Introduction

In the 1970s, police needed to address public concern because of the tactics being used during interviewing, as more and more miscarriages of justice came to light. Recent miscarriages of justice in England and Wales show the damaging effects that can happen through poor interviewing of suspects and witnesses which were leading to false confessions and consequently to false convictions. Police officers believed that the main target of the interview with suspects and witness was to gain a confession. Stephenson and Moston (1994) found that 80% of the police interviewers they asked argued that obtaining a confession is a success. In England and Wales the police service and the government have made lot of changes to improve police interviewing and to minimise the percentages of miscarriages of justice. The audio taping of all suspects and witness interviews were introduced by the Criminal and Evidence Act (known as PACE). The introduction of audiovisual content helps the police service to introduce training for police officers to interview in an appropriate way. Prior to the introduction of PACE, the default of legal advice along with use of coercive police interviewing tactics were often considered as central factors in eliciting confessions from suspects (Gudjonsson, 1992a). Despite the new legislation (PACE), there were still cases coming to light about miscarriages of justice derived from inappropriate interviewing, such as the " Cardiff Three" case. It was clear that a change was needed, a move to a more ethical interviewing techniques and a new concept of fairness, openness and accountability started to appear. The seven principles of investigative interviewing in England and Wales endorsed by the Association of Chief Police Officers (ACPO) and the

Home Office Steering Group on Investigative Interviewing (1992) were developed. These principles were based on concepts of open mindedness, fairness and consideration of vulnerable people; and also the interviewer should focus more on gathering information than just seeking a confession (Williamson, 1994). All these changes led to a standardised framework for ethical interviewing known as PEACE. The model was based on psychological principles and it is important to mention that memory plays an important role to investigative interviewing. These changes and improvements were based on work by psychologists and they were a great importance to society and to police procedures.

Therefore, public perception is an important part of social and political issues. It can change agendas, behaviours and attitudes of social norms. The crucial issue here is where people form their opinion, from which sources and to what extent these sources influence perceptions. Recent studies found a correlation between media, crime and public (Dowler, 2003). Furthermore, people are influenced by media and numerous theories can explain this phenomenon. However, reality is always more extensive and complicated than any system of representation and possibly most people cannot distinguish virtual and real. Representation never " gets" reality which is why human history has produced so many different and changing ways of trying to get it. The media reproduce and represent a case in a way that misinforms people.

The aims of this study are:

To represent the techniques of police interviewing.

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To show the improvements in police interviewing

Investigate how well people are informed about police interviewing techniques

The objectives of this study are:

To identify police interview techniques in England and Wales.

To identify sources of opinion about police interviewing.

And to identify connections between the media, the police and the public.

### **Why is this research worth doing?**

Public perception gives to political community details about their views and what they really believe in all social aspects, these help politicians and the media as well to set the agendas. Police force is an important part of social cohesion and tranquillity. In the past, miscarriages of justice occurred and as a result of that people developed negative views about the police. At the late 80s' until early 90s' people and society did not trust the police force and consequently the government. It is worth noting that psychology field introduced to police and several improvements changed police system. It is of great importance to research this subject often because people's opinion can help in a case and/or for major issues. Media has effects on the public, due to the fact that most of the people read the press and watch television. Television is not the best teacher of the relative salience of issues (Caragge, 1987). It is vital to know the effect media has on the public and to what extent the media can influence people. This study is intended to

demonstrate the techniques that are used by police during the interview, the improvements made so far and to identify where people get information on this subject and how well informed they are.

In Chapter one, we will discuss the history of police interviewing techniques, pre and post PACE, and consider miscarriage of justice cases. In addition, false confessions will be discussed. People's opinion from previous research show their views about police and this will be discussed in chapter one. At the end of this chapter, primary improvements in legislation and practises will be shown and analysed such as PACE and Circulars. Chapter two will discuss the PEACE model, what constitute PEACE and how is applied to the field. Two strands of the PEACE model will be explored: the Cognitive interview and Conversation management. Furthermore, an important element of PEACE is memory which is discussed in chapter 2. This will explore how memory works and what is happening if a person forgets, and how interviewers can obtain information from an interviewee. Also, theories that explain how memory is developed are discussed and analysed in this chapter; and how events are stored or not stored in the memory. In chapter three, author will represent how the media influence public's opinion and prove that from previous research. Also, the explanation of why people influence from media and how is based on social and cognitive psychology theories. After chapter three, follows methodology, in which author explain how the sample was chosen, what questions were used, how author analysed the data and how data were applied to the subject. Furthermore, chapter five is basically the results of the research, analysed on SPSS and the results were represent on graphs and figures. Chapter six, is discussion in which author compare the findings

of this research within the theories which are in the previous chapters. Also author made critique on the methodology and give recommendations for future research and for more improvements. Conclusion is the last part of this research and it is a brief summary of this work.

## **CHAPTER 1-**

### **History of police interviewing in England and Wales**

Interviewing suspects and witnesses is a basic operation of policing all over the world. In England and Wales, pre PACE, historically there was no formal interview training for police officers and officers learnt how to interview through observation of other police officers. Thus, the best evidence of guilt was confessions and theoretically good interviewers were those who could convince suspects to confess to crimes. Police interviews prior 1984 were governed by Judges' Rules, these were just guidelines for the officers who they were allowed to execute interviews unrecorded and then to write a report of the interview from memory. Afterwards, officers' memory of the interview was presented in court from the handwriting report. The dangers of this are self-evident - officers can pick up bad practises or miss valuable information. Eventually investigations can be damaged, disrupted or even destroyed. The secrecy of the police interview room led to widespread concern about the tactics used to extract confessions - things like intimidation, oppression, deception, and even physical violence (Leo, 1992). It has been shown that these tactics can lead to false confessions, in which case a double miscarriage of justice occurs - not only is an innocent person convicted but the true offender remains free (Gudjonsson, 1992). The aim of this chapter is to discuss the old investigative interviewing which led to

miscarriages of justice. Also, what was happening to police interviewing, why false confessions were frequent phenomenon and what types of false confessions exist. An important theme is public perception about police interviewing at this historical time. Finally the primary improvements that have been done, such as PACE and Circulars 7 and 22.

## **Miscarriages of Justice**

When the term 'miscarriages of justice' is used, it usually refers to what are called questionable convictions or wrongful convictions. Walker (1999: 52-5) summarises the causes of questionable convictions which are: fabrication of evidence, unreliable identification of an offender by the police or witnesses, unreliable expert evidence, unreliable confessions resulting from police pressure or the vulnerability of suspects, non disclosure of evidence by the police or prosecution, the conduct of the trial and problems associated with appeals procedures. However, the term miscarriages of justice as relating to questionable convictions is itself partly adequate (Adler and Gray, 2010). Consequently, the term can also occur when there is no action, inaction or questionable actions, whereby an offence has taken place but no action or insufficient action or interference has followed. Questionable actions include police unprofessional conduct and lack of ability (e. g, failures to investigate effectively, poor treatment of victims and their family), insufficient prosecution processes (poor communication with police, 'risk avoidance'), and problematic trial practices (hostile cross examination of witness, weak presentation of the prosecution case). Therefore, questionable actions represent police failure to identify suspects and to press charges, the lack of success of the prosecution to mount a case, the collapse of the prosecution

case during the trial and as a result, agencies ineffectiveness to inform or support victims and their families (Newburn, Williamson and Wright, 2007).

Traditionally, the primary aim of police investigators has been to obtain a confession from the primary suspect, the confession being seen by officers to be the key of a successful investigation and the predominant means by which a conviction can be secured. To understand why a confession was so pivotal concern it is essential to consider the operation of various systems of justice. In an adversarial system, the judge is considered to be neutral during the trial process and should leave the presentation of the case to the prosecution and defence who prepare their case, call and examine witnesses. According to Zander (1994), the adversarial system is not a search for the truth. The inquisitorial system aim to be a search for the truth, in this system the judge is not neutral but will play critical role in the presentation of the evidence at the trial. The Judge calls and examines the defendant and the witness. While the trial is in progress lawyers for the prosecution and defence can merely ask complementary questions. The Royal Commission stated that ' It is important not to overstate the differences between the two systems because all adversarial systems contain inquisitorial elements and vice versa' (Runciman, 1993). The court was not interested in the truth; it just had to decide whether punishment has been applied beyond all rational doubt. Therefore, it is not surprising that confession evidence had priority and investigators relied on a confession within the investigation process. Certainly, investigators focused on a confession and to attain a confession used coercive methods, allowing the investigation team to move on to the next case. False confessions lead to

false convictions, thus police officers reproduced miscarriages of justice within their behaviour and interviewing tactics (Newburn, Williamson and Wright, 2007).

## **False confessions lead to false convictions**

In the UK and other countries, a number of miscarriages of justice have established that false confessions occur and a large number of these are due to factors which exist within the interview context. Kassin and McNall (1991) analysed the tactics described by Inbau, Reid and Buckley (1986) which lead to false confessions; and found two categories: maximisation, where interviewers use scare tactics to intimidate a suspect believe to be guilty and minimisation, where interviewers underrate the offence seriousness and charges. Three categories of false confessions were identified by Gudjonsson and MacKeith (1988) and expanded by Shepherd (1996). These categories are as follows:

### **Voluntary false confession**

Voluntary false confessions occur when the interviewee falsely confesses for personal reason without pressure. Possible reasons that suspect give false confession are: to exempt feelings of guilt about a real or imagined crime or situation in the past (this is most possible to happen for people with depression, Gudjonsson, 1992). To pre-empt further investigation of a more serious offence; to cover up the real culprit; to gain notoriety- a wish to become infamous and to enhance one's self esteem; an inability to distinguish reality from imagination(people with schizophrenia); to take a revenge on another and to hide other non criminal actions.

## **Coerced-compliant false confession**

Coerced-compliant false confessions arise when the interviewee agrees to make a confession in order to make some kind of gain. This category of false confession occur from social influence factor; compliance. Compliance is a change in one's behaviour for contributory purposes, it is first found in Asch's (1956) primary studies of conformity and Milgram's (1974) research on obedience to authority. Interviewee sees the short term advantages of confessing (being released) outweighing the long term costs (such as prosecution and imprisonment). People, who are passable to compliance such as people with learning disabilities, may be especially vulnerable to this type of false confession.

## **Coerced-internalised false confession**

The last category is a coerced-internalised false confession in such cases suspects come to believe that they are guilty because they no longer trust their own memory of certain details. This type of false confession derives from a cognitive effect and refers to the internal acceptance of beliefs held by others. An interviewee who is anxious, tired and confused actually comes to believe he or she committed the crime. The suspect's memory may be altered in interviewing process. This can be linked to the false memory syndrome.

The memory distrust syndrome concerns interviewees who distrust their own memory and consequently depend on external guide for information (in this particular situation -interviewer, Wolchover & Heaton-Amstrong, 1996). This syndrome can be explained in two ways. The first relates to amnesia or

memory damage. The interviewee has no clear memory and does not  
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remember if he committed the crime or not. Also he or she does not remember what exactly happened the time of the crime. This may be due to amnesia or alcohol induced memory problems. The second way occurs when the interviewee is aware that he or she did not commit the crime and when the interviewer makes cases, manipulates the interviewee with suggestions. The suspect mistrusts his or her self and start thinking if he or she committed the crime. Ofshe (1989), stated that three common personality characteristics are situated on people who give this type of false confessions. They trust in people of authority, lack of self confidence and heightened suggestibility. Gudjonsson (1997) also argued, " the false belief and false memories in cases of coerced- internalised false confession are most commonly developed as a result of manipulative interviewing techniques." Gudjonsson and Clark (1986) also introduced the theory of suggestibility which is a theoretical model of interrogative suggestibility and arises from a social cognitive viewpoint. It is argued, that most people would be vulnerable to proposals if the needed circumstances of doubt, between people faith and sensitive prospect are there. Implicit in such a model is the assumption that interrogative suggestibility is a distinct type of suggestibility. Gudjonsson also points out that; suggestibility is, to a certain extent, influenced by situational factors and experience. IS is defined as " the level to which, inside a congested societal interface, people come to agree to messages conducted in proper questioning, as a result of which their following behavioural answer is affected" (Gudjonsson and Clark, 1986). The IS is comprise two separate susceptibilities: to yield to leading questions, where yielding regards to the reliability of testimony and closely reflects memory processes; and to shift the primary answer in response to negative feedback, where shifting is

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related to coping process which are mainly affected by personality traits and experience (convicted in past, Gudjonsson, 1992).

The literature on miscarriages of justice highlights the role of coercion in obtaining confessions and the problem with convictions based only or mainly on confessions. Using unfair means and tactics to secure a conviction is sometimes known as noble cause corruption. That is to say, so strong is the desire to achieve a 'correct' conviction that any means to that end are justified. The adversarial process combined with the pressure for a quick result creates noble cause corruption. Resounding examples are Guildford Four and Birmingham Six, which have been described in newspapers as the worst miscarriages of justice in England in the last century. The Guildford four took place on 5 October 1974, in which members of the Irish Republican Army planted bombs in two public houses in Guildford, Surrey: the Horse Groom and the Seven Stars. The attacks left five people killed and over 100 injured. Kennedy (1989) describes how Conlon, came to sign his confession and what previously happened. Police officers were violent and immoral. As Conlon stated " I was crying and frightened. Simmons said if I didn't make a statement, he would ring Belfast first thing in the morning and I would never see my mother or sister again. The last of my resistance shattered when he said this. I was crying and shaking uncontrollably. I said my family hadn't done anything. I fell apart. Simmons said what happened to my family was up to me. I said I would make a statement like they wanted, but it wouldn't be true as I really didn't do it" (Kennedy, 1989). The four men spent 15 years in prison before the case was overturned in 1989 after a new police investigation had found serious flaws in the way Surrey police noted the

confessions of the four: that the notes taken were not written up immediately and officers may have colluded in the wording of the statements (Gudjonsson, 2003). Another event happened as it was called "The Birmingham Six", after one month when Guildford four took place, namely on 21 November 1974. Two public houses in Birmingham were bombed by the IRA in which 21 people were killed and more than 160 were injured. Six men were convicted for this crime and they were released after 16 years (in 1991) Scientists admitted in court that forensic tests which were originally said to confirm two of the six had been handling explosives could have produced the same results from handling cigarettes (Gudjonsson, 2003). In Guildford four, the confessions that had been central of their conviction in 1975 were shown to be unreliable and in, sometimes fabricated. In the second case, Birmingham Six, the confession was discredited. Thomas Heron, who was on trial for the murder of a young girl, was acquitted when the interviews, which led to his confession, were dismissed by the trial judge as oppressive. In this case interviews were recorded in compare of Guildford Four and Birmingham Six in which the interviews were not recorded.

The Police Studies Institute Report found (1983) that the most widespread opinion about police interviewing and the most popular police misconduct is that police officers threatening and the use of unfair pressure. Around fifty percent of the respondents believed that police use threats and pressure at least sometimes but the more important is twenty five percent thought that it often happens and this was a usual behaviour of police officers. A de facto percentage of Londoners believed that other kinds of misconduct happened

at least once in a while. Around ten percent of Londoners thought police officers fabricate evidence and use inexcusable violence on people were detained at police stations. The findings of this research showed the public perception which was negative and critical against police. . The majority of Londoners had serious doubt about police conduct. People did not trust police interviewing, it showed that there was a complete lack of confidence and reliability (Smith 1983: 325). One third of young white people thought the police often used threats or unreasonable pressure during custodial questioning while 62 per cent of young people of West Indian descent believed that they did so. Therefore, people were critical of police where they had a high degree of conduct with the police or they were subject to a high level of victimisation (Jones et al, 1986). The successful appeals of Guildford Four and Birmingham Six and the acquittal of Heron received widespread publicity and brought heavy criticism of the police and affected public opinion. A general public survey found that 73 per cent of the participants believed that the police broke the rules to obtain convictions (Williamson, 1991). By 1993 police interviews were described as a grave concern (Shepherd 1993). These surveys provide a rich picture of the nature and quality of the relationship between the citizen and the police in the past (Williamson, 2005).

By the 1970s and 1980s in England and Wales it was clear that the legitimacy of the criminal justice system was at stake. Something had to be done. This became the focus of policy making. Such were the concerns that the Royal Commission on Criminal Procedure (1981) was set up, in turn leading to the passing in 1984 of the Police and Criminal Evidence Act(PACE)

a key piece of legislation to monitor, amongst other things, the integrity of evidence production (Maguire, 2003) Through PACE (enacted 1986), police interviews with suspects were to be tape-recorded. This, it was hoped, meant the old regime of police investigations would be brought to an end and police interviews should be open to scrutiny (Lea, 2004). PACE suggested that investigation should separate from prosecution and should have an independent investigation service. Scientists with educational background should work in these laboratories and help the police to investigations and police officers had to be trained. All police knowledge about police interviewing is grounded on experience rather than purpose and scientific data. Experience is inestimable to police work and its helpfulness is depicted by the success of the techniques suggested. However, based only upon experience in formative procedure may produce severe pitfalls and be unsuccessful to get to light vital evidence about individual behaviour, such as the vulnerability of some suspects to give mistaken information when positioned beneath interviewing stress. What is essential is more research into the usefulness and traps of different interviewing techniques. Also they argued that forensic laboratories should be independent from police.

The effectiveness of Pace is debatable, on the one hand McConville and colleagues suggested in 1991 that little of police interviews had changed especially in relation to 'interrogative suggestibility'. Namely, the tape recording of interviews had not changed the power relations in the whole interview process, principally the fact that "Interrogation takes place in an environment which increases the vulnerability of the suspect and maximises the authority and control of the police" (1991, p78). On the other hand, Ede

and Shepherd (2000, p109) stated that " tape recording of PACE interviews led to a sharp decline in forceful interviewing and revealed the widespread ineptitude of police officers in the interviewing role" In the same concept Milne and Bull (2003) report experience officers views. " Since the 1986 introduction of PACE regarding audio-taping interviews with suspects, police interviews have become better planned, more structured, and the use of trickery and deceit has all but vanished" (p121) .

PACE seems to have noticeably restricted the number of scheming and convincing techniques that police officers apply when interviewing suspects, except perhaps in the most serious cases (Milne and Bull, 1999).

Fascinatingly, there seems to have not been any generally effects on the confession rate of suspects. The reason that police interviewing was still poor (Baldwin, 1992) was because of police role in the investigation of offences was still one of persuading suspects to confess rather than engaging in a process of inquiry, which was a search for the truth. The persistence on confession evidence also meant that witness and victims were often ignored, not seen as an important part of the investigation process, consequently were not interviewed methodically and so were not capable to present all the information they were competent of giving as evidence (Adler and Grey, 2010). Obviously, there was a need for a change of investigative interviewing to meet the ideals of the new legislation and to prevent challenges to the evidence achieved through questioning. This constituted in the establishment of a national committee on investigative interviewing that involved police officers, lawyers and psychologists. That result was the beginning of the PEACE interviewing model (Milne et al, 2007).

## CHAPTER 2-

### PEACE

#### **Investigative Interviewing**

In spite of the establishment of PACE, large number of interviews were informally trained and learnt on the job. This partly explains nation why judges believed some interview behaviour was unsuitable and unacceptable (see chapter 1). Public confidence in the police service was compromised and it was necessary to train its officers in an effort to ameliorate interviewing performance. This perception of police interviewing led to the development of the investigative interviewing ethos and the PEACE training model. The term interrogation was relinquished in an effort to confront the confession culture and to change the interviewers' behaviour during investigations and to avoid the old, traditional tactics. Moreover the literature on investigative interviewing indicates little continuity in the use of the terms 'interviewing' and 'interrogation', although the latter is only linked with the interviewing of suspects. For instance, early findings show information on techniques that police could use to try to convince a person to confess trended to use the term 'interrogation', in England and Wales, although the term interrogation was not used but police officers used the same practises when interviewing (see for example Inbau, Reid & Buckley, 1986). Yeschke (2003) stated that "The goal of interviewing is to collect truthful data to be used for informed decision-making and just action-taking. An interrogation, on the other hand, is a face-to-face meeting with a subject with the distinct objective of gaining an admission or a confession in a real or apparent violation of law or policy". Thus it shows that interrogation is

limited and inefficient to gather accurate information during the interviewing. The transition from interrogation to investigative interviewing represents a new trend in police questioning (Williamson, 1993). This change of terms is an important first step to changing the interviewing behaviour of investigators from an oppressive, suggestive, closed- questioning way related with assumptions of guilt to a more open- minded, open questioning search of truth (Milne & Bull, 2003).

The Home Office and ACPO decided that there was a need for a national training course to teach this new ethical approach to interviewing. This was set out in Home Office Circular 22 (see Chapter 1). This was followed by Home Office Circular 7 (Home Office, 1993), which introduced a new training package for initial interviewing skills (two booklets on investigative interviewing: A guide to interviewing (Home Office, 1992a), The interviewer's rule book (Home Office, 1992b)). Home Office Circular 7 and Home Office Circular 22 were followed up by a national training programme where firstly officers with 6-10 years service went through a five day investigative interviewing training course known as PEACE, subsequently, all officers trained. PEACE, first letters mean: Planning and Preparation, Engage and Explain, Account, Closure and Evaluation. All interviews, whether with victims, witnesses or suspects, are 'investigative interviews'.

## **Planning and Preparation**

According to the CPTU (1992a, p1 cited in Milne & Bull, 1999, p159) planning is "the mental process of getting ready to interview" and preparation is "considering what needs to be made ready prior to interview [including] such things as the location, the environment and the administration". Numerous <https://assignbuster.com/the-techniques-of-police-interviewing-criminology-essay/>

authors, (eg. McGurk et al, 1993; Milne & Bull, 1999; Ord et al, 2004) describe the essential elements of good planning which are: a) Understanding the meaning and the importance of the interview. b) Get as much background information as possible on the event under investigation, containing (for suspects) information on the person to be interviewed. c) Defining the aims and objectives of the interview. d) Understanding and recognising the points to prove assessing what evidence is available and from where it was obtained. e) Assessing what evidence is needed and how it can be obtained. f) Understanding the legislation and associated guidelines and considerations. g) Preparing the mechanics of the interview (attending to exhibits, logistics, venue, equipment functioning, seating, and so on). As the planning is an initial trait of the PEACE model, it suggested that the greater the planning and preparation of an interview the more effective and efficient that interview will be (Bull & Cherryman, 1995).

## **Engage and Explain**

This stage is crucial to the success of an interview. The essential element of engagement is an introduction appropriate to the circumstances of the interview. A professional and appropriate relationship needs to be formed between interviewer and interviewee (McGurk, Carr & McGurk, 1993). Ord et al (2004), summarises the crucial step which the interviewer have to do.

Creating a good thought from the outset has more results. Courtesy, politeness and understanding, cost nothing but can greatly contribute to a successful interview" (p16). Behave and deal with the interviewee as an individual and equal: " Interviewers who take the time to find out needs and concerns, and take steps to address them, are much more likely to succeed

in interviews than those who either do not take the time to identify them or choose to ignore them" (p17). Be able to understand the feelings of the person being interviewed: " Empathy [means] to understand how the other person feels while maintaining an objective being interviewed stance" (p18). Interviewer have to explain the reason for the interview: " The importance of the interviewee's knowledge in assisting the investigation should be emphasised, in order for interviewees to identify their crucial role in the investigation and appreciate what is required of them" (p18). Giving instructions and description of the proc