

Investigative interviewing doctrine

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Summary

Introduction

The Investigative interviewing doctrine (doctrine) provides core guidance on investigative interviewing and the techniques designed to encourage victims, witnesses and suspects to give complete, accurate and reliable accounts.

History of interviewing

Traditionally, most investigators have learnt to interview victims, witnesses and suspects through a mixture of intuition. This mixture includes peer example and practical experience. The dangers of this are self-evident. Investigators can pick up bad habits or miss valuable information.

Research has found that just as no-one is born with the innate ability to handle firearms properly, no-one has an innate ability to conduct effective interviews. Interviewing skills should be developed through ongoing training, practice, feedback and assessment.

Purpose

The purpose of this doctrine is to support all investigators in acquiring the knowledge, understanding and skills to carry out effective interviews with victims, witnesses and suspects.

Related information

More information on investigative interviewing can be found in:

- Services/CIB/Service Units/[Investigative Interviewing](#)
- Investigative Interviewing [Witness guide](#).
- Investigative Interviewing [Suspect guide](#).

Acknowledgement

Much of the material used in this doctrine has been adapted from 'Practical Guide to Investigative Interviewing', Central Police Training & Development Authority (Centrex), June 2004. The Investigative Interviewing Unit gratefully acknowledges the generosity of Centrex in allowing the New Zealand Police to use this and all their other 'PEACE' related material.

Other material comes from:

- Milne, R. & Bull, R. (1999). 'Investigative Interviewing: Psychology and Practice.' Wiley: West Sussex.
- Ord, B., Shaw, G., & Green, T. (2004). 'Investigative Interviewing Explained.' LexisNexis Butterworths: New South Wales.
- Schollum, M. (Sept 2005). 'Investigative Interviewing: the literature'. New Zealand Police: Wellington.

If you have any feedback please forward any comments to investigative.interviewing.unit@police.govt.nz.

Investigative interviewing doctrine, Continued...

Definitions

To assist officers, a definition of terms used in this doctrine is shown below.

Challenge	Seeking an explanation from the interviewee for inconsistencies with evidence from other sources or their own account.
Complainant	A person who brings an offence to police attention thereby instigating a police response.
Confession	An admission or part admission, or any inculpatory statement, whether communicated verbally, in writing, or any other form.
Conversation Management model	A structured interview model normally used with a suspect or uncooperative witness.
Cross examination	Firm questioning to check or extend answers already given. (See Investigative interviewing suspect guide).
Difficult interviewee	A person who is compliant but troublesome to interview.
Electronic recording	Recording of an interview by means of DVD or video or other electronic method.
Exculpatory statement	An exculpatory statement is a statement intended to clear a person from blame.
Free Recall model	A basic interview model which can be used for interviewing compliant interviewees in the majority of situations.
Inculpatory statement	A statement that implicates a person in an offence i.e. admissions and confessions.
Interviewee	The person who is being interviewed: includes victim, witness or suspect.
Investigative interviewing	The questioning of victims, witnesses and suspects to obtain accurate and reliable information in order to discover the facts about matters under investigation.
Investigatively important	Of value to the investigation because it helps to establish the nature and ingredients of the offence, possible defences, the identity of the offender or further lines of enquiry.
PEACE framework	An interviewing framework that provides a structure to planning and conducting effective investigative interviews.
Special consideration	When an interviewee whose age, disorder, disability or other characteristic might mean: <ul style="list-style-type: none"> • they have special communication needs • the amount of information they can give is lower • they are vulnerable in some manner.
Specialist interviewer	A person by reason of his or her training (level 3) and/or experience has the necessary skills to communicate with victims, witnesses or suspects who require special consideration.
Suspect	In relation to an offence, means any person whom is believed has or may have committed that offence.
TEDS	A mnemonic that is helpful when constructing open questions. It stands for: Tell, Explain, Describe, Show.
Unco-operative interviewee	A person who refuses to assist you or is not co-operative with the investigation.
Victim	A person injured, or suffering loss or harm as a result of an offence.

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Witness	A person who has information about an alleged offence or offender, even if they were not physically present at the event. Everyone who provides evidence is a 'witness' so the term includes victims, complainants and suspects.
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Part 1 - Introduction to investigative interviewing

What is investigative interviewing?

Investigative interviewing is the questioning of [victims](#), [witnesses](#), and [suspects](#) (interviewee) to obtain complete, accurate and reliable information to discover the truth about the matter under investigation.

The aim of all investigative interviewers (interviewers) is to develop interpersonal and tactical skills. These skills will assist you to ask the right questions so that the most complete and accurate response is given. You must act in a manner which encourages the interviewee to tell you the truth.

The importance of investigative interviewing

The core role of the New Zealand Police is prevention, detection and reduction of crime. Investigation is at the heart of carrying out this role. It is a process that the public and the criminal justice system entrusts to the Police and assumes will be conducted effectively and with integrity.

All employees with constabulary powers are investigators whether they are a constable, detective, sergeant, senior sergeant or inspector and whether they are investigating a vehicle collision, theft or homicide.

The investigative process usually includes several methods of obtaining investigative information including interviewing, crime scene examination, using forensic science, collecting real and documentary exhibits, etc.

It has been estimated that up to 90% of an investigator's activity involves gathering, sorting, compiling, and evaluating information. Thus the ability to do this well is key to a successful investigation.

'A major factor that determines whether or not a crime is solved is the completeness and accuracy of the witness account.' *Milne & Bull, 1999, p 1.*

The importance of interviews with witnesses

Professionals increasingly acknowledge that the investigative interviewing of witnesses has equal importance to the interviewing of suspects. NZ research found that interviewers are generally more proficient at suspect interviewing than at interviewing victims and witnesses. This reflects a higher value placed on suspect interviewing.

If the initial interview with a relevant witness is not conducted effectively then the entire investigation can fail. It is from that initial interview that:

- defines the nature of the offence itself
- outlines the possible suspects
- creates the methods for investigation, etc.

Information provided by witnesses can also enable you to validate or challenge a suspect's version of events.

This doctrine covers the core skills required to interview victims and witnesses. Victims are a type of witness and will not be referred to separately in this doctrine.

The importance of interviews with suspects

A suspect is a witness too. They may be able to provide valuable information that assists in establishing the truth of the matter under investigation, whether they are guilty or innocent.

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Effectively interviewing suspects can lead to admitting the offending. Admissions are considered a particularly persuasive form of evidence. A suspect's admission may support a subsequent prosecution and conviction but it should not be solely relied on to guarantee it.

If a suspect admits, the interviewer should not take the accuracy of what is said for granted. Evidence must be sought within the interview to support the admissions and rebut any later challenges.

This doctrine covers the core skills required to interview suspects.

Benefits of investigative interviewing

The benefits of high quality investigative interviewing impact upon the New Zealand criminal justice system and Police at every level.

'Solid interviewing skills stand as the cornerstone in law enforcement's arsenal of crime-fighting weapons.' (Einspahr, 2000, p20).

Benefits to the Police

The benefit to Police to undertake investigative interviewing ensures:

- more complete, accurate and reliable information
- less duplication of effort (e.g. re-interviewing)
- greater consistency in performance
- better deployment of employees
- better decision-making (e.g. about the investigation and potential prosecutions)
- enhanced credibility
- improved relationships with victims, witnesses and offenders
- improved public trust and confidence
- greater generation of intelligence
- improved morale and professionalism.

Benefits to the criminal justice system

The benefit to the criminal justice system is:

- fewer not guilty pleas
- increased conviction rates
- savings in court time (e.g.: pre-trial applications, voir dices, cross-examinations, appeals)
- fewer delays in court proceedings.

Benefits to justice

The benefit to Justice is in identifying the:

- innocent and preventing wrongful convictions
- guilty as early as possible and holding them accountable.

Investigative interviewing doctrine, Continued...

Part 2 - The professional approach to investigative interviewing

National framework of investigative interviewing

The New Zealand Police has a four level national framework for investigative interviewing. This framework includes a:

- hierarchical modular training system to achieve professionalism and integrity, and
- supervisory component for those responsible for supervising investigative interviewers.

The framework is summarised as follows:

Level	Description
1	Foundation It provides foundation interviewing skills for all recruits and constables including free recall and conversation management.
2	Advanced It is for all investigators and involves consolidating and advancing on the skills learnt in Level 1.
3	Specialist It is for a variety of specialist interviewers for both suspects and witnesses. It includes enhanced cognitive interviewing (word document), interviewing for major crimes and with interviewees requiring special consideration.
4	Advisory It is for interview advisors to provide advice, management and co-ordination of interviewing in major operations.

The approach

Interviewers are more likely to be successful if they adopt a professional approach. They should keep an open mind and treat the interviewee with fairness, respect and dignity. This type of approach is also expected by judges, juries and the public.

The professional approach to investigative interviewing requires the interviewer to:

- be [ethical](#)
- have [ownership](#)
- be [methodical](#)
- establish a [professional relationship](#)
- apply [professional and personal style](#)

Ethical interviewing

Interviews must not be oppressive, physical or psychological abuse is unacceptable (even in the search for truth), interviews must be fair.

Investigators are expected to conduct ethical interviews. They must demonstrate a willingness to accept that an interviewee has the right to:

- be treated with dignity
- make free choices whether or not to
 - engage in the exchange, or
 - respond to the content and the conduct of the exchange.

This makes the two parties equals as opposed to the officer being in the dominant position and conveys respect.

Juries watching interviews make decisions based on any resulting admissions. They expect you to behave in an ethical and fair manner.

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Ownership

Being a professional involves taking ownership of your work. The same principle applies when you are the officer in charge of an investigation. You must take ownership of the investigation and be able to justify your actions.

This principle applies to any investigative interview that you conduct. It is your responsibility to ensure equality and completeness of all aspects to an interview.

The result is a reflection of your own standards. Supervisors, trainers and experts are available if you require advice. However, whether before a judge or jury the onus will be on you to explain your actions.

Methodical

Being methodical helps the interviewee to provide more complete information. It helps both the interviewer and the interviewee. The following are all parts of this process:

- planning and preparation
- following your interview plan
- logical sequencing
- allowing time for questions to be answered
- summarising (when appropriate)
- linking and probing.

Using these techniques will enhance the amount of information that can be obtained from the interview. Methodical professionals perform better, have greater job satisfaction and a greater likelihood of getting the co-operation of those they interview.

A study of police interviews of suspects showed that methodical interviewers demonstrated improvement in:

- introducing the interview
- obtaining the interviewee's account
- using questioning techniques
- communication skills
- structuring the interview
- using effective listening skills
- covering all the points needed to help prove an offence
- obtaining more relevant information.

These findings are transferable to witness interviewing.

Some useful techniques will be introduced in this doctrine to help you interview methodically.

Establish a professional relationship

Establishing a professional relationship with interviewees encourages them to participate in the interview. Trust is also important because interviewees may fear the consequences of providing information.

Interviewers should seek to establish a relationship based on trust to give the interviewee the confidence needed to provide full and honest information. The interviewee has to be reassured that they will be listened to and receive fair treatment.

Personal style

A personal and professional style is more effective than a formal one.

Investigative interviewing doctrine, Continued...

A good approach is an assured personal style, which encourages an environment where matters can be raised openly and without embarrassment. This does not come naturally to many interviewers but can be developed through training and practice.

Example:

A Scandinavian psychologist taught some interviewers in an identical way, apart from adopting either a formal or a personal approach. The results clearly showed that **the information from interviewees was more forthcoming, accurate and relevant when they interviewed using a personal compared to a formal style**. The suspects were more helpful to an interviewer who showed a friendly, encouraging interest in them. Interviewees were also less suggestible and became sticklers for the truth and defended their own views.

Interviewing style matters because it directly affects the interviewee's motivation to be accurate and relevant in their replies to questions. Personal style is sometimes referred to as the task of establishing '**rappport**' which means being genuinely open, interested and approachable. This approach will normally be appreciated and reciprocated. You should show empathy and avoid being formal, distant and uninterested in the interviewee's feelings or welfare. Using this sort of approach does not mean you condone what someone has done, it demonstrates an open mind, respect and professionalism.

Interviewing versus interrogation

The term 'investigative interviewing' is used instead of 'interrogation' for questioning suspects.

Interviewing is a much broader concept than interrogation, originally meaning an occasion when two people can examine each other's views (**hence 'inter-view'**). The term 'interviewing' has largely taken over from 'interrogation' to describe the task of obtaining information from witnesses or suspects. The term 'interrogation' has negative connotations arising from its association with oppressive tactics.

Interviewing is a more suitable term in the context of investigations. The interview may also be:

- used for the purposes of providing information, such as court procedures
- an opportunity to encourage a two way process so that the interviewee can be a useful informer
- considered as a conversation with a purpose.

The problem with seeking a confession

Traditionally, seeking a confession has been seen as the main purpose of suspect interviews. This presumes guilt by the interviewer preventing them from conducting the interview with an open mind. This presumption creates obstacles to the interviewer in establishing the truth of the matter under investigation by:

- diminishing the ability to form a relationship of trust with the interviewee
- promoting confirmatory bias i.e. interpreting information so it confirms preconceived ideas (refer to the section on 'Memory')
- increasing the risk of false confessions.

In addition, before commencing the interview, suspects have usually made up their mind whether or not to confess and research suggests there is very little the interviewer can do to change their mind. This in no way means that the interview is pointless, but rather, that the interviewer should:

- not feel defeated if a suspect does not confess
- focus on establishing the best evidence rather than obtaining a confession.

Investigative interviewing doctrine, Continued...

As an investigative interviewer it is important to recognise that your behaviour and attitudes can cause a suspect to decide **not** to confess. **Remember** the purpose of interviewing a suspect is to establish the facts.

Investigative interviewing doctrine, Continued...

Ten principles of Investigative interviewing

Introduction

[Ten principles](#) have been established to provide an authoritative guide to ethical investigative interviewing. As an investigator you should approach every interview with these principles in mind and use them to actively examine your own attitudes and behaviour. Doing this will not only aid you in achieving the good results from your interviews, but also minimise the risk of adverse scrutiny.

Police officers should approach all interviews with the following ten principles in mind:

Principle 1: Interviewing is at the heart of investigation

- Interviewing witnesses and suspects is essential to establish facts.
- A conversation seeking information is an interview. It does not matter if you are getting information from a burglary complainant, issuing an infringement notice, or speaking to a murder suspect.
- All police officers are investigative interviewers. You need the knowledge and technical skills to do the job competently.
- You do not merely take a statement from someone, you interview them.

Principle 2: The aim of an interview is to discover the truth

- Your aim is to discover the truth about the matters under investigation.
- The truth may be elusive, so you may need to be persistent.
- The interviewer must try to get a complete and reliable account. This may not be obtained easily. For various reasons, witnesses and suspects may be reluctant to talk, economical in what they say or downright dishonest.

Principle 3: Information must be complete, accurate and reliable

- All information obtained during an interview should be complete. Omissions can compromise the investigation.
- The information should also be accurate. It should therefore be a precise reflection of what was said.
- The information obtained during an interview needs to be reliable. It will often be used to further the investigation, open up other lines of enquiry and act as a basis for questioning others.
- Completeness, accuracy and reliability will help information withstand subsequent scrutiny.
- Using an interviewing framework such as PEACE and various interview models such as 'free recall', 'conversation management' and 'enhanced cognitive interviewing', will help you to gather complete, accurate and reliable information.

Principle 4: Keep an open mind

- Assume nothing and prejudge nothing.
- You must be prepared to believe what people might say but you must equally be on guard against deception. Whilst witnesses are generally trustworthy, they can invent stories to protect a friend or relative, or to distract you from their own involvement. An interviewee may equally be genuinely mistaken and believe something is true when it is not. In addition, you must be aware that suspects may make false admissions.
- Use your intelligence, planning and common sense. Consider what the interviewee says in the light of what you already know and against what you might be able to prove later.

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Principle 5: Act fairly

- Take the characteristics of the person being interviewed into account - factors such as age, sex, health and lifestyle.
- With a person who has had no previous experience of police, questions may have to be carefully introduced and phrased. However, people who have more experience of the police may need to be dealt with more firmly.
- Your own interests, views, and background should not influence your attitudes or behaviour for or against any individual. Witnesses, victims and suspects should be given a fair hearing whatever your personal feelings about them.
- The circumstances of each case should determine the amount of time the interviewer allows for an interview - whether it is with those who allege they have been victimised, or who claim to have relevant information, or who deny committing an offence.
- Your reaction to particular people inevitably influences your judgment about what they say. With training and practice you can learn to speak to people and respond neutrally.

Principle 6: Questioning can be persistent

- You are not bound to accept a first answer - you might receive false information or lies.
- The interviewer seeks the truth and is entitled to be skeptical if skepticism is justified.
- Where there is good reason for suspicion, it is right to persist on those grounds alone.
- With a suspect an interviewer must check out or challenge inconsistencies to ensure an account is complete, accurate and reliable. Equally, you may be persistent because you feel there is more information that could be provided.
- In a suspect interview your primary aim should not be to obtain a confession. That can lead to oppression which ultimately affects the accuracy and credibility of the information.
- An admission from a suspect may go some way to supporting a subsequent prosecution and conviction but should not be solely relied on to guarantee it. You should probe for detail within the interview that will help validate or challenge any admissions that are made.

Principle 7: Some witnesses require special consideration

- It is your job to identify what witnesses require special consideration. Factors to consider include:
 - the witness's age
 - any physical, intellectual, psychological or psychiatric impairment
 - trauma suffered or fear of intimidation
 - their linguistic or cultural background or religious beliefs
 - the seriousness of the offence and the investigative importance of the witness
 - the relationship any other person in the investigation
 - likely absence from New Zealand
 - any other reasons a witness may be deemed to be in need of special consideration.
- The kind of action you need to take after identifying a person as requiring special consideration depends on the circumstances. However, always bear in mind the possibility that the person might be interviewed more fully later. So you need to think about what you first say to the person and how you are going to say it.
- You will need to ask those questions necessary to glean an understanding of what happened and to decide on your initial action. That initial action is likely to focus on any need for medical attention, the preservation of the scene and physical evidence, identifying other witnesses and the apprehension of suspected offenders. But be careful not to taint a person's later account by pressing too hard at the beginning.
- Your aim is to maximise the quality of the evidence of the person requiring special consideration.

Investigative interviewing doctrine, Continued...

Principle 8: Suspects must be interviewed in accordance with the law

- Investigative interviewers must comply with the following:
 - Evidence Act 2006
 - Practice Note on Police Questioning
 - New Zealand Bill of Rights Act 1990
 - Crimes Act 1961
 - Children, Young Persons & their Families Act 1989
 - Police Act 1957
- An investigative interviewer must understand and apply all legal requirements for interviewing.

Principle 9: Care must be taken to identify suspects that require special consideration

- Vulnerable suspects require special consideration. Factors to consider when identifying if a suspect requires special consideration include:
 - age
 - their physical, mental, or psychological condition
 - any mental, intellectual, or physical disability
- It is your job to identify who may be vulnerable, but the category includes:
 - suspects under 17
 - people with learning or communication difficulties
 - those with alcohol or drug addictions, and
 - people with mental or physical disorders or disabilities.
- Difficulty in giving a reliable and accurate account means vulnerable people require special consideration when being interviewed.

Principle 10: Be sensitive to cultural background and religious beliefs

- All officers should have a basic awareness and understanding of cultural and religious differences.
- Be aware that people from other cultures may construct their answers differently from those with a New Zealand background.
- Recognition of and sensitivity to cultural or religious beliefs will assure you of a better opportunity to obtain complete, accurate and reliable information.

Investigative interviewing doctrine, Continued...

Part 2 - Psychology of investigative interviewing

Basic communication

As an investigator, your job is both a fact-finder and provider of information. You should not be cold and mechanical about it but personalise your interactions with members of the community. For example, when taking a report of a burglary from a victim you need to find out the facts of the case from them, but at the same time be careful that you do so with empathy and concern for their welfare.

An effective interviewer is compassionate, courteous and patient. This is fundamental to the way that we communicate with and interview people.

The communication transaction

Communication is a type of transaction that involves the sending and receiving of signals. You may have seen posters outside your police station headed 'Wanted' or 'Can you help?' but if they are not read by the public, then communication is not taking place. Most transactions last for only a short time. It is therefore important that you use that time to make the transaction meaningful.

In a simple transaction: one person (the SENDER) puts over a message to another person (the RECEIVER) who in turn becomes the SENDER of a return message to the original person, who is now the RECEIVER.

If the communication does not work, this can be due to a fault in any part of that circuit. It may be that the SENDER is not really sending or that the RECEIVER isn't receiving. The communication may also be affected by 'noise'.

Noise

Communication can also be affected by noise. Noise can take the form of:

- physical noise (aircraft, traffic, air conditioning etc)
- psychological noise (own frame of reference, prejudices, stereotypes, closed mindedness)
- semantic noise (where the words of the message are simply not understood).

The way you look, the clothes you wear, the way you walk, stand or sit all send out messages. They are all part of communication.

In order to learn more about communication, we can break it up into two parts: [verbal](#) and [non-verbal](#) communication (NVC).

Verbal communication

Verbal communication refers to words only and is believed to account for only 10% of communication. Words often communicate what the sender wishes to say, but not always. There are three aspects to words:

- content
- meaning
- feelings.

The words themselves are used by people to convey meaning. If a witness says 'I saw the two cars collide' the meaning is fairly clear.

Words which do not match the meaning intended

There are circumstances when people communicate words which are in conflict with what they really mean or feel. 'I'm all right' or 'Leave me alone' are just two common phrases which it may not be wise to take at face value. 'That's charming', 'that is' and 'Yeah right' are also examples of phrases people might use when they actually mean the

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opposite. A witness might say that they saw two cars crash, which could mean that they saw one car hit a stationary car, that both cars were moving in the same direction, or in opposite directions.

Words which have a different meaning for you than for the person saying them

This is often associated with dialect or cultural habits. For example, if a witness said 'It was around dinner time yesterday that I saw the two cars crash', they could mean either the meal at midday or in the evening. If an interviewee describes the IPOD as 'hot' it could mean it is stolen, or that it is a desirable item.

The lesson to be learned here is that for effective communication to take place you must always check that the signal you are receiving is the same as the one which is being sent.

Verbal communication is nearly always supported or expanded in some way by nonverbal communication (NVC).

Non-verbal communication (NVC)

Research has found that facial expression, voice tone, silence, body positioning, eye movements, pauses in speech, and other aspects of NVC all send messages. These may confirm, obscure, or contradict what is being said. As an investigative interviewer the ability to observe and interpret NVC will assist you with the communication process.

Intonation

Intonation is the modulation of the voice. 'It ain't what you say, it's the way that you say it' is a phrase that describes intonation. Intonation often indicates the speaker's mood, tensions, and feelings. For example, if you ask a victim how they are feeling and they reply 'I'm alright' in a resigned, depressed way, it will indicate to you that they are not actually 'alright'. Emphasis is a part of intonation and gives you special clues as to meaning.

Intonation can also indicate to you if the speaker is drunk or under the influence of drugs. But do not jump to conclusions as some people have a natural drawl or slur in their voice.

Word spacers

Another way of saying word spacers is the term 'paralanguage'. This includes 'ums', 'ers', grunts, sighs, sobs and other noises which get mixed in with sentences while someone is trying to say something to you (or, trying not to say something to you).

Together with pauses, these spacers provide clues as to the speed a person's mind is going at that time. When you talk to an interviewee for the first time you will not know their natural rate of 'ums' and 'ers'. In this situation it is important to contrast how the frequency of word spacers they use changes during the course of the interview. If someone starts 'um-ing' and 'er-ing' at a greater rate all of a sudden it is likely that this person is uncertain of themselves or what they are telling you and the word spacers are filling in the gaps of their speech while they think of what to say next, creating a higher cognitive load. It does not mean they are lying, but it is a clue that something has changed from their normal speaking pattern.

If someone is giving you information, and pauses for a moment, do not leap in and put another question. Let the pause build up. Very often with these unfilled pauses, the speaker will provide extra information which you would otherwise not have obtained. It does not come naturally, and therefore requires conscious effort to be effective.

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Positions and gestures

The way a person sits or stands, their gestures and other movements can communicate a large amount of information. Included in this category is eye contact, shaking or nodding your head, and facial expressions. Not looking someone in the eyes is an interesting example because avoiding eye contact is often assumed to suggest evasion or concealment. Yet in some cultures avoiding eye contact is a sign of respect for authority or modesty.

People under pressure tend to become defensive. They are not likely to smile and sit in a relaxed manner. Sometimes, the content of the message, its meaning and feelings may be instant and all too clear, such as an aggressive gesture. Be aware that certain positions or gestures do not have universal meanings. Take note of them but be open-minded as to their meaning.

Proxemics

The distance between us and other people will often have an influence upon the signal we send or receive. The study of distance is sometimes called 'proxemics'. We have what are effectively invisible barriers around each of us.

The **intimate zone** is our closest barrier. This is a space around you of up to 45cm which is reserved for your intimate friends. Anyone else who gets into this zone is a trespasser and will make you feel uncomfortable at best, and angry at worst.

The **personal zone** runs from 45cm to about 1.2m. As its name implies it is reserved for those who have a close personal relationship.

The **social consultative zone** extends from 1.2m out to about 3 to 4m. People you are dealing with professionally would normally be in this zone.

Remember that there may be cultural variations. Some cultures have different proxemic zones.

Problems can arise when force of circumstances brings people closer together than they would usually get. Distorted or unwelcome signals may be sent or received. Next time you are sitting on a bus, watch how people take their seats. Strangers tend to leave a seat between each other. Casual friends may sit opposite and good friends will happily sit beside each other. When the situation becomes crowded and people are pressed together, people may work hard at avoiding looking at their neighbour. For example, in a crowded lift they may look up or down or study the floor indicator but they will not look at each other.

When dealing with people from minority groups, officers need to be aware of cultural variations. The significance of gestures may be radically different. For example, pointing at a person in a Somali home would be extremely insulting and could aggravate an existing situation. Also something as simple as male officers shaking hands with Hindu females may cause distress to the female.

In an interview situation, sit an appropriate distance from the other person. Your exact position will depend on the nature of the interview and characteristics of the interviewee. Some guidelines are as follows:

Ten to two position: turn your body somewhat towards the interviewee. This is usually the best position to adopt. Use this position with a co-operative or unco-operative interviewee to promote a relaxed atmosphere. It allows you to look straight ahead when thinking, without the strain of direct eye contact.

Investigative interviewing doctrine, Continued...

Ninety degrees: sit with the interviewee next to you at right angles. Use this position if you want a semi-relaxed atmosphere. The angle will provide comfortable cover for both you and the interviewee if required.

Face to face: sit directly opposite the interviewee. Avoid using this position as it is confrontational and may increase aggression.

Dress and ornaments

One way in which people send messages is in the way they dress and the ornaments they wear. First impressions do count. Make a note of what you wear as a civilian. Include your jewellery, watch etc. Now make a note of all the possible messages which your clothes, jewellery or even watch, might be sending, even if you did not consciously intend them to. Finally, think of some messages that might be sent by a police uniform. Consider how these messages might affect your efforts at communication.

We need to communicate with people as individuals. Inevitably, prejudgements or stereotypes will come into play. The main learning point here is that people do consciously or unconsciously send messages by the way they dress.

Deception

Be careful when trying to interpret the difference between truthfulness and deceptiveness through NVC. Research has made it clear that:

- there is no single behaviour that accurately reflects whether people are being truthful or deceptive, and that
- people often hold stereotypical views about non-verbal behaviour which are incorrect.

Therefore, conclusions based solely on someone's behaviour in the interview room cannot be relied upon. Research has shown that even with training, the odds for detecting lying is only slightly better than chance. In fact, those that are trained tend to have an increased confidence in detecting deceit which results in a bias towards judging the person to be dishonest. This means that they are more likely to incorrectly believe that a person is lying when they are not.

There is no evidence to support the reliable prediction of deceit through observing NVC.

A skilful interviewer may notice changes in the behaviour of the interviewee over the course of the interview. For example, if the interviewee may appear to become stressed. This is often interpreted as deceit. While it may be due to an attempt to deceive, it could equally be caused by a number of other factors such as:

- recalling an upsetting experience
- anger about false allegations, or
- an innocent person being concerned over the evidence against them.

If you observe a change in behaviour on the part of the interviewee do not assume that it is a result of deceit. Consider other possible causes and if relevant ask more questions.

Helping the communication process work smoothly

Being interviewed by an investigator is an unusual situation for most people and may make them anxious. Most people communicate quite well under normal circumstances but few of them can naturally receive messages calmly and accurately while under stress. They add interpretations, forget bits, muddle up events and so on. When you are dealing with a member of the public (and especially when you are trying to deal with more than one at a time), your communication process must be made to work as well as possible.

Investigative interviewing doctrine, Continued...

This can be achieved not so much by becoming a good talker. Although that helps but by **becoming a better listener** through:

- reading the hidden messages (the meaning and feelings) as well as the direct ones
- tuning into people's feelings as well as getting facts from them
- noting the intonation, word spacing, gesture messages, distance and visual messages as well as listening to the words.
- asking open questions to explore the NVC.

Eye contact

An important part of the non-verbal element of communication is eye contact, sometimes known as 'gaze'. Always remain mindful of cultural differences. For example, when being spoken to by someone in authority Samoan consider it impolite to look them in the eyes. Similarly, Chinese do not like prolonged eye contact.

Eye contact seems to play three main roles in the communication process.

Eye contact enables non-verbal reactions to be seen

By now, you will have realised that we communicate not just with words but with our whole bodies. Getting the full message from somebody means paying attention not just to the words but also to NVC. [Eye contact](#) helps this, if we are not looking at the person trying to communicate it is possible that much of the message will be lost.

Think what it is like speaking with someone on the telephone. The possibility of misunderstanding is increased because you cannot see what the other person is signalling with their body. This is worth remembering when you are taking telephone messages in the course of your duty. It is possible that someone's life will depend on you getting the message right.

When eye-contact should not be promoted

Using eye-contact uses part of the brain that is also used to generate internal images. It is easier to visualise memories when you have your eyes shut than when looking at something. Eye-contact should not therefore be encouraged when you are trying to get a witness to recall detailed information. In these circumstances you might suggest they close their eyes or look at a spot on the wall, floor or elsewhere whilst remembering. You can help this by looking away yourself, e.g. by taking notes but maintaining a periphery view of the witness.

Eye-contact sends signals

Mutual eye contact (gaze) can often be the start of a transaction. We even use the expression 'to catch somebody's eye' to mean this. Conversely people will often deliberately avoid eye contact to prevent a transaction taking place. The investigative interviewer should be cautious about eye contact when dealing with people of different societies as in some cultures direct [eye contact](#) is avoided as a sign of respect.

As investigators, the importance of eye contact with those with whom we want a transaction is important. Members of the public may well find that the sight of your uniform will be a barrier to communication. To a suspect, it may represent a threat. So to start a communication circuit may require special effort on your part. Creating eye contact in a non-threatening manner will be an important part of this.

Eye contact helps to synchronise the utterances of the speaker and listener

We have already seen that communication is at least a two way process, and this will inevitably involve taking turns. [Eye contact](#) helps you know when the other person is finishing what they are saying. You will also need to take turns to put into practice some of the listening strategies which are noted above.

Investigative interviewing doctrine, Continued...

Effective communication

The constable on patrol undoubtedly has an important role in enhancing relations with the public. How you conduct yourself, and how you communicate and interact, has a direct bearing on how the public view the police service as a whole.

Police training focuses from an early stage on the ability to relate to people in a variety of situations. The object of such training is to develop your interpersonal skills and help you to use them to best effect.

Expectations

In any encounter with another person:

- be careful not to apply stereotypes or your own values to the situation
- be alert to what the person actually says and does, rather than assuming that you know what is happening
- be aware that members of the public have expectations of you as an investigator.

The language we use

Our use of language can be a barrier to effective communication if we do not think about what we say and the way that we say it. You will no doubt have found yourself in situations where you stop listening to a speaker who is tedious, uses unfamiliar words or addresses only some people in the audience. Observing the guidelines listed below will help you to achieve clear, concise and effective communications.

- Use language which is appropriate for the people you are addressing, without talking down to them. Members of the public may be made 'police officer anxious' by contact with the police and will easily become confused by explanations which use unfamiliar or 'legal' terms.
- Avoid technical words, jargon and acronyms. In common with most other occupations, the police service has its own vocabulary. While its members may understand what something means, other people can feel excluded or at a disadvantage.
- Do not try to impress your listeners by using complicated language; you will simply lose their attention. Many people use unnecessary 'padding' when speaking (or writing) which gives them more thinking time and may be intended to give their message more importance. In fact the message gets lost in 'waffle'. For example, instead of 'at this moment in time', say 'now'; and instead of 'speaking for myself personally' say 'I think'.
- If you have an important message to deliver, whenever possible plan what you are going to say and rehearse it, so that you express it clearly and confidently.
- If you are concerned about addressing people incorrectly, listen to the way they describe themselves or ask how they like to be known.

Language and values

Much has been said recently about 'political correctness' in language and how some words have been 'banned'. It is unfortunate that a serious consideration of how the language we use reflects our values and prejudices has been trivialised by some. Some words do exclude or belittle certain groups, reinforce stereotypes or carry negative overtones. No one is suggesting that simply by avoiding such words we can demonstrate our commitment to fairness. It is, however, one way in which we can challenge our habits and begin to change our attitudes.

Examples:

Listed below are a few examples which illustrate how apparently simple words may carry more significant messages.

- 'Landlord' or 'landlady' or 'master' and 'mistress': think of the image conjured up by the male version compared with the female version. The male titles suggest power,

Investigative interviewing doctrine, Continued...

authority and responsibility, whereas the female versions may appear to be less important and often have humorous or sexual connotations.

- 'Fireman' or 'policeman': these are words which exclude women by suggesting that only men fulfil these roles. Using the separate terms 'policeman' and 'policewoman' does not necessarily help, since, as we have seen above, the female version of a word may suggest something less important than the male version. An alternative word which does not refer to gender is usually more appropriate, such as 'fire-fighter' or 'police officer'. On the rare occasion when you do need to refer to an officer by sex, use 'female police officer' or 'male police officer'.

These examples are given to highlight the arguments that are put forward for care in the use of language. However, there is a danger in becoming so worried about using the 'right' word that we forget what we are really trying to achieve. We can usually tell when someone is using the right words, but they still hold an underlying negative attitude through the intonation.

It will help you to be a more effective investigator to think about the messages you receive from commonly used words and about the reasons why some people are resistant to the ideas outlined above.

Three stages of an encounter

Most routine encounters go through 3 stages: entry, process and exit.

The entry

How you enter an encounter is important because the approach you select will help determine how the encounter proceeds. Two main factors will influence the success of your entry: the quality of the information you bring to and how you open the encounter.

It is an unfortunate fact of police life that on many occasions you will be called upon to enter an encounter with little information to help you deal effectively with it. As a consequence, you may base your response on previous experiences, and unwittingly display a lack of sensitivity to the individuals concerned and the particular circumstances of that incident.

To avoid this, equip yourself with as much information as possible about the impending encounter, whilst maintaining an open mind.

If this is not possible, e.g. if you are sent to an encounter with only an address and no further information, you will need to call on various skills, such as asking open questions to gather sufficient information upon which to proceed. A straightforward opening remark such as 'Hello, what's the problem?' may be sufficient.

Arriving at the scene of an encounter will become a routine task for you, but for most people the arrival of an investigator is an exceptional and possibly intimidating experience. First impressions count, so it is vital that your arrival is positive and professional.

Adopt the approach and degree of formality most suitable to that situation. On arrival introduce yourself, explain what you are doing and what you need from the person. If you show respect for members of the public, you are far more likely gain respect and to receive co-operation from them. On some occasions you will have to use your authority, e.g. when arresting a suspect, but even then courtesy and consideration must be shown.

Investigative interviewing doctrine, Continued...

The process

At this stage you are involved in the encounter, ready to deal with whatever the person has to tell you or ask of you. You may also have to deal with a wide range of emotions. This task is not easy and is often complicated by external pressures.

You will be only too aware that it is important to proceed with the investigation. Trying to resolve the incident and to detain any offender are both vital functions. However, witnesses usually place equal importance on the way you deal with them. Although you may have little time available, empathy and understanding are needed. Offer referral to other sources of support if appropriate.

Avoid appearing distant in your manner or totally focused on the facts rather than the people involved. Although on occasions that style might be appropriate, try to be flexible and respond in the most suitable way. Above all be sincere in your support at this difficult time.

Coping with others' feelings is an inevitable part of interacting with people. It requires you to demonstrate respect and sensitivity. Practice and reflecting upon your experiences will enable you to develop these skills.

The following paragraphs point out areas where your approach will make a significant difference to your relations with the public.

Privacy

It can be a source of embarrassment for a member of the public to be seen talking to an investigator. It may lead to curiosity, speculation and suspicion. It can also block a person's memory.

It is easy to fall into the trap of requesting personal details or information from someone while other people are within earshot. The resulting embarrassment can mean that the information you receive may be limited or misleading. Such encounters can be far more productive if you take steps to eliminate or reduce embarrassment. If the situation allows, conduct the encounter out of public view, try to avoid being overheard and use an approach which does not attract attention.

Audiences

Conducting an encounter in the presence of an audience may present more than just privacy problems. A crowd of spectators can cause concern, especially when the presence of the police creates a less than friendly atmosphere. A crowd may gather from curiosity but as the encounter progresses people may take sides. As a result you may find you have a public order problem to deal with.

To avoid such situations, try to go somewhere private. If you don't have this option, and spectators have gathered you will have to decide whether to disperse them or ignore them. It depends whether you believe the spectators are likely to interfere or aggravate the situation.

Not all audiences react violently against the police, but you must be aware of the possibility and learn by experience about the circumstances in which an unfavourable audience reaction is likely to occur. Always remember that an important aspect in controlling a crowd's behaviour is to make sure that you control your own.

Apologies

In common with most people, investigators dislike being considered wrong, or being accused of unjust behaviour. Therefore some investigators find it difficult, if not impossible, to apologise.

Investigative interviewing doctrine, Continued...

As a police officer many people will expect you to have all the answers and you may succumb to the danger of believing them. You are only human and will be susceptible to making mistakes, either by providing incorrect information, or even arresting the wrong person. An apology in such circumstances is not an admission of failure and will more often than not earn you respect. If you have made a genuine mistake, offer a genuine apology. The police service will reap the benefit if we are all more willing to accept responsibility and learn from our mistakes.

Recording information

As an investigator your job requires full and accurate records to be kept. Be aware that the need to fill in forms and obtain information for records can have an effect on the success of an encounter.

For example, if you open your notebook at the outset, the person may feel inhibited. On the other hand, if you do not record sufficient information the person may feel that you are not taking the matter seriously and you may omit details which are essential as evidence.

You will have to strike a balance depending on the person you are dealing with and the circumstances of the incident. This may not be an easy task, but experience will help you to develop your skills.

There is nothing wrong with asking someone to repeat information you missed or forgot to record.

Remember legal requirements and the Practice Note require a full record of interviews with suspects. This includes discussions prior to any formal interview.

Formality

One of the questions many officers have difficulty in answering is, 'How formal should I be when dealing with the public?' The answer cannot be precise because of differences in personality and widely varying circumstances.

Obviously some situations will demand a formal approach so that authority and control can be exercised. In the majority of circumstances an informal and friendly approach will ensure that the encounter runs smoothly.

Aggression

You will be in a position to influence the progress of most encounters by your approach. Occasionally, this will be made difficult by the other person's attitude. Inevitably you will come across people who are aggressive and obstructive.

Nobody really knows why some people are more aggressive than others. Some scientists believe that human beings are by nature aggressive but usually their upbringing and education teach them to control their instinct. However, some people never seem to learn control, or they easily lose it in some circumstances.

In addition, being part of a group can alter people's behaviour. Individuals who are placid on their own may behave aggressively when they are in a group or are under the influence of alcohol or drugs. This is particularly true if the group as a whole is being threatened or if individuals feel pressured to conform to the behaviour of the others.

Sometimes you can handle violence only with controlled force and use of the techniques you learn in self-defence. More often you will be able to influence others by your own behaviour.

Investigative interviewing doctrine, Continued...

Remain calm and controlled: do not respond to taunts and insults. Do not become aggressive yourself as it could make this situation worse. If force is used against you, respond only with such force as is necessary as defined by section 48 of the Crimes Act 1961.

The use of unreasonable or disproportionate force will result in a violation of section 62 Crimes Act 1961 and/or the exclusion of evidence under section 28, 29 or 30 of the Evidence Act 2006.

The exit

Encounters can end in various ways. Whatever conclusion you intend, you must remember that the exit is just as important to the encounter as the entry. Leaving an encounter without concluding it may undermine the whole process.

Broadly speaking there are four options for further police action:

- **formal or informal enforcement:** charging a person with an offence, referral for a family group conference or verbal warning are the options used for those who have committed an offence. Offenders are also members of the public who deserve to be dealt with politely. Discretion may be appropriate; often a firm word will suffice. If you do decide that enforcement is the appropriate method of dealing with the person, fully explain the procedures that will follow.
- **resolution of the problem:** it may be that by speaking to those involved, you resolve the matter to their satisfaction without recourse to the law or other agencies.
- **assistance with solving a problem:** this is generally by giving advice so that the person can take action within the law to solve the problem.
- **referral to other agencies:** if you are faced with a problem that cannot be resolved immediately, ensure that you take steps to resolve it later. If necessary, explain why the police cannot help and refer the person to another agency. Whatever action you decide to take, always explain it fully to the person concerned.

Dealing with people is a complicated and unpredictable venture. There are many unpredictable elements in every encounter. Previous experience of the police and the state of mind of the individual are examples of the sort of things that influence encounters and their outcomes.

While some situations are easy to deal with, others may present problems. You must learn to identify quickly what kind of event you are facing and the best way to deal with it. This goes further than asking yourself what aspect of the law is involved and requires that you identify other resources and strategies available to you, such as your interpersonal skills and the use of discretion.

Try to ensure that each stage of an encounter is completed and that you show consideration and courtesy throughout. By communicating clearly and listening attentively, you can increase your effectiveness, and thus find your work more rewarding.

If possible the encounter should avoid offence, be polite, encourage future contact and end on a positive note. Remember that we can learn from every encounter and apply our new awareness to improve our relationship with the public we serve.

Investigative interviewing doctrine, Continued...

The memory process

Introduction

The memory process is generally agreed to be fallible. We do not memorise everything we see as if we have a video camera operating in our brain. Given this fallibility, as an investigative interviewer it is vital that you understand how memory works and the ways in which errors and omissions arise.

This understanding allows you to judge more accurately how much interviewees can be expected to recall about an event and how much weight can be placed on the information they produce. It will also help you understand just how easy it is for you as the interviewer to contaminate an interviewee's memory.

The fragility of memory is recognised by the courts and judges give standard warnings to juries about the reliability of eyewitness and identification evidence.

The following material has been largely taken from 'Investigative Interviewing: Psychology and Practice' by Rebecca Milne and Ray Bull (1999).

What is memory?

'Memory is a vast body of knowledge that we have about the world...'
Milne & Bull (1999, p11)

The human brain has the ability to retain a vast quantity of information and experience over a lifetime. But memory is not like a video recorder that records everything it sees, or a computer that can retrieve everything stored on it. Instead:

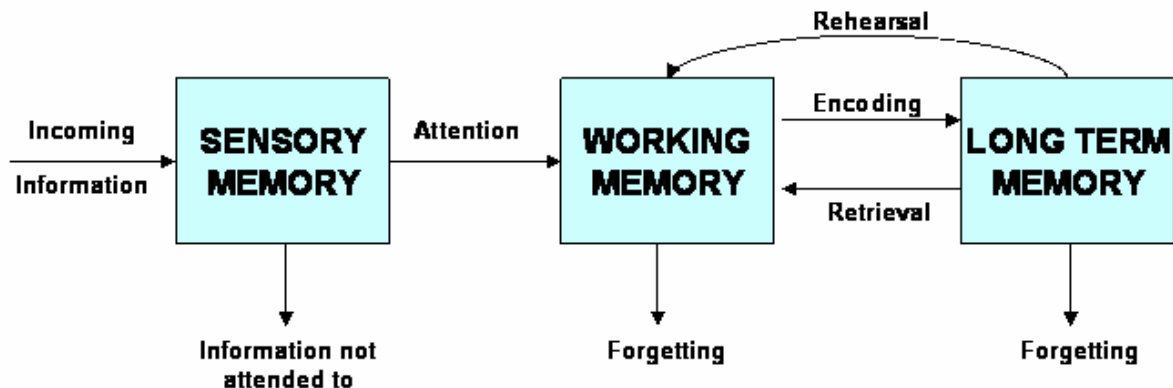
"Human memory is cluttered. Memories don't get lost so much as they become distorted or hard to find. We may like to say that we've lost something - but often, an hour later, it pops uninvited into our consciousness, where it has been lurking all along. The serious difference between computer and human memory is that we don't pop out a pristine copy of the original event, the way a computer does. Instead, we reconstruct things as best we can from all the clutter. We guess. Often that isn't good enough, especially for a fair judicial process. Or just one's self respect; it's embarrassing to be badly wrong and we'll deny an error even to ourselves" (Loftus & Calvin, 2001).

Memory is constructed rather than recorded. It consists of information that is entered into the brain using a combination of electrical and chemical processes. There are three different memory stores that information passes through in sequence. They include: sensory memory, short-term and long-term memory (as represented by Figure 1). These sensory stores differ in terms of capacity, duration and function.

Information transfers from one stage to the next depending on how meaningful it is considered.

Investigative interviewing doctrine, Continued...

Figure 1: Stages of memory



The processes involved in storing memory differ depending on the stage of storage:

- sensory memory is separate for each sense (e.g. sight, sound, smell) and holds information for three seconds or less
- working or short-term memory uses electrical impulses to store information and can hold the information for up to about 30 seconds with rehearsal
- long-term memory is used for anything stored longer than 30 seconds and involves a structural change to the brain which can take hours to occur.

'Memories are not recorded but are actively constructed by the brain.'

Memory is organised to assist us to remember

The way memory is organised can have a powerful influence on what is remembered. When you experience a situation, you reconstruct the details in your memory. If the experience is repeated the memory is reinforced and new information may also be added. Regularly rehearsing or repeating the experience influences your memory to the point that you respond without thinking about it and it becomes routine. This may occur even if you have subsequently undergone a contradictory experience. The following example may demonstrate this.

A police station went through modifications and moved the meal room from the first floor to the second floor. Staff for weeks after the alterations still went to the old location arriving to discover they had 'forgotten' about the move. It is perhaps not so much as they had forgotten about the move but that they relied on routine.

Retrieving memory can be compared to trying to find information stored in a filing cabinet. Failing to find the information does not necessarily mean that the information is not there. You may have opened the wrong drawer or filed the information in the wrong place.

Memory recall at the most detailed level requires focused attention and intense concentration.

In a first attempt to remember an incident or specifics, we are likely to recall broad outlines, but little detail. The more time spent on attempting to recall, the more detail may be remembered. Your interviewee must feel that they have sufficient time to recall.

Forgetting

Your own experience will probably tell you that memory fades over time and people are usually able to give the most complete account of an experience soon after it happened.

Investigative interviewing doctrine, Continued...

Forgetting begins immediately after the event. In general, the highest portion of memory loss occurs during the first two hours. The rate of forgetting usually reduces after this time.

Usually, a witness should be interviewed as close to the event as possible. However, delaying the interview for a short time may be more productive in certain circumstances, for example, if the interviewee is intoxicated, tired or distressed.

In serious cases you should contact the witness the next day to see if they have remembered anything else or at least leave them with your details so that they can contact you should they recall further information, which they probably will.

Memory processes

Memory processes can be described as a sequence that has three separate phases.

Stage	Description
Encoding	Information is entered into memory.
Storage	Once information is encoded into memory it is stored.
Retrieval	When recalling an event the memory must be retrieved from storage.

Failure of any one or a combination of these phases can lead to failure in memory.

It is important to note that forgetting is often a problem of retrieval rather than storage. The information may be there but the person might be trying to open the wrong drawer. A good example of this is the 'tip of the tongue' phenomenon. By using the right investigative interviewing techniques and encouraging the interviewee to concentrate we can assist the interviewee in retrieving information that has been stored in memory.

Interviewing someone using the correct (i.e. memory enhancing) techniques is the key to better recall.

The chart overleaf demonstrates the effect the interview process can have on memory.

Factors affecting the encoding of complex events

Interaction between the witness and the event

The quality of encoding is largely reliant on the degree of interaction between the witness and the event. The level of interaction can be determined by a number of variables such as: the physical distance from the person to the event, amount of time under observation and so on. Interestingly studies have shown witnesses are more accurate at encoding information in daytime and at the beginning of twilight. Studies have also shown that witnesses who were involved in the incident had better recall than bystanders.

Attention

Possibly the most common reason for not being able to recall something is that we never 'encoded' it into our memory in the first place. This often happens because limitations on our attention span mean that we can only attend to some aspects of everything we see or experience. It follows that some things will simply not be selected for encoding and will, therefore, not be available to be recalled. For example, if asked you would not be able to remember the hundreds of cars you have seen on a long drive. This is not because you cannot remember but simply because you did not focus on those cars in the first place.

It is impossible to attend to everything that we can sense, all at the same time. E.g. can you think about what you are reading, what you can hear, what you can see in your

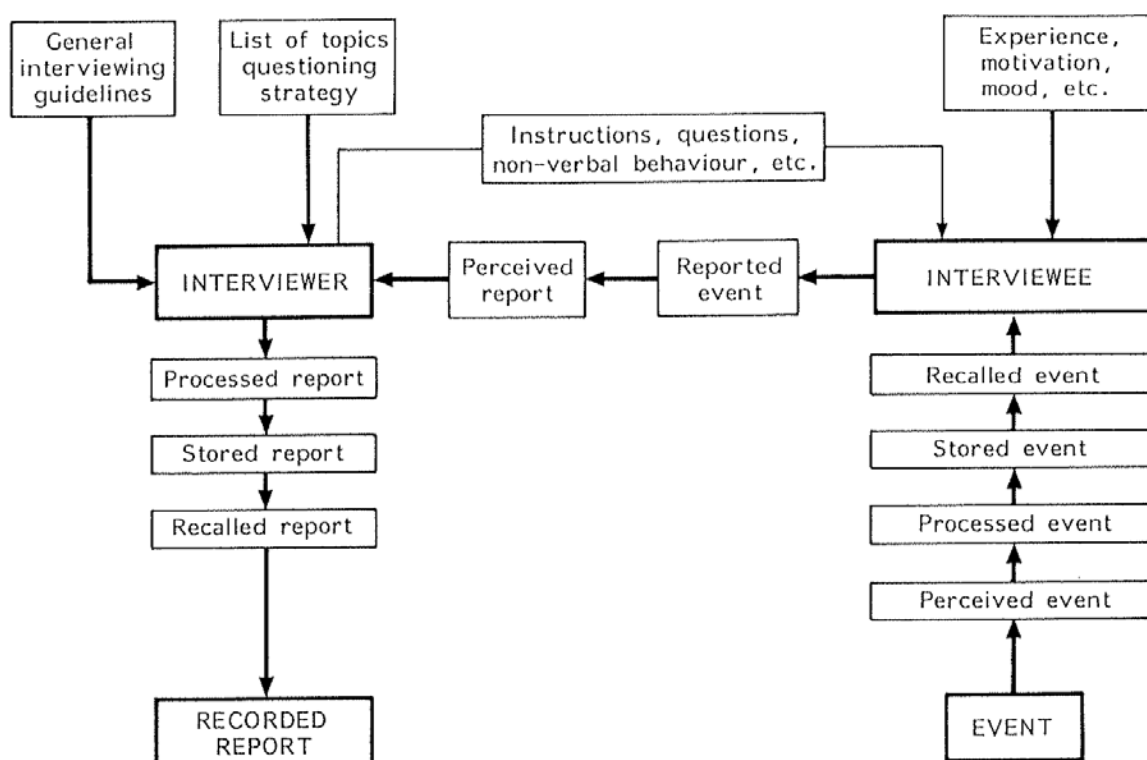
Investigative interviewing doctrine, Continued...

periphery vision, the sensation of what you are touching (not just through your fingers but also the rest of your body) what you can smell and what you can taste, consistently and all at the same time? Even though each of these senses can provide information at any one time, relatively little of this potential information is processed by us.

This selective attention process depends on a person's knowledge, expectations, attitudes, past experiences, interests, training and what that particular person judges to be important at that point in time. If the information has not been attended to in the first place, the information will never be able to be recalled. It was never stored in the memory in the first instance. And if it was never stored, the quality of interviewing will not affect whether the interviewee can recall this information. In other words, you must accept that even someone who was right on the spot when something happened may have little or no recollection of it.

Memory is selective and subject to various influences.

Research suggests that a person's recall performance can be affected by various factors. The diagram below shows the many stages that form the route from the event to the recorded report (statement). Information can become distorted, missed or misunderstood at any stage.



1

Alcohol and drugs

Of particular interest, **problems with recall can occur with both high and low levels of alcohol consumption.** When dealing with an interviewee under the influence of alcohol or drugs use your judgement to determine if they should be interviewed

¹ Kohnken, G (1995). *Interviewing Adults in Handbook of psychology in legal contexts*. J. Wiley. Chapter 3.4, page 217.

Investigative interviewing doctrine, Continued...

instantly or whether it would be advantageous to delay the interview until the effects are worn off. You should also be cautious about the reliability of a witness who has taken controlled drugs causing hallucinations or paranoia.

Stress

Stress may reduce the **quantity** of what witnesses recall but it **does not reduce the quality**. In addition, you should be aware that real life traumatic events tend to force witnesses to narrow their attention to core aspects of an incident which may be stored and remembered for longer periods.

A study by Yuille and Cutshall (1986) showed that witnesses to a homicide who indicated high stress levels had a mean recall accuracy of 93% when interviewed by police two days after the event. Research has shown similar results with witnesses to an armed bank robbery. Quality remains high. However, studies have also shown that in these types of cases a lot of what is recalled is action orientated as opposed to person orientated.

Stress and trauma can often cause the temporary blocking of memory. For investigative purposes, witnesses who have undergone a stressful experience will often need to be interviewed as soon after the event as possible, but, as an investigative interviewer, you should be aware that the detail of the information that they are able to recall may be 'blocked' by the state of trauma they are in.

Example:

Imagine how the owner of a service station would feel after being the victim of an armed hold-up. You arrive on the scene just after the robbers have made off on foot and ask him/her to describe them as accurately and completely as possible. What image is the mind likely to be filled with at this time? Does this suggest anything to you about the time that you are likely to conduct the most complete and accurate interview with this witness?

Although criminal offending is something you, as an investigator, deal with every day this may be the most traumatic incident the witness has ever experienced. As the stress level subsides, the range of detail that the witness is able to recall generally increases. When interviewing a stressed witness be aware that their attention may well still be focused on the cause of the stress, and other information about what went on before and after the event may still be buried deep in their memory. Be patient, as a general rule you should interview them after the 'stress block' has had time to subside. Therefore, consider delaying the interview.

Presence of weapon

The presence of a weapon can affect memory. Witnesses can often describe the weapon but have little recall of peripheral matters. This phenomenon has been described as 'channelised attention' and is an indispensable adaptive function. The witness focuses on the factors that present the greatest threat. This means an accurate description of the weapon may be given but that other information vital to the investigation, such as details about the offender or what was said, may become difficult to recall.

Event violence

The level of violence may also influence the encoding and storage of information. Witnesses of violent events, compared to non-violent, tend to remember more peripheral details but have poorer recall of investigatively important information such as the appearance of the offender.

Investigative interviewing doctrine, Continued...

Factors affecting retrieval of complex events

The retrieval process involves reconstructing the stored memory. To prevent cognitive overload a number of tools are used by the brain to simplify this process.

Memory works more like a pocket notebook than a recording. References are jotted down to help you to write up a full report later. To fill in the gaps people use knowledge they have about the world in general (semantic memory). This includes their prejudices, opinions, social and cultural background, and even post event experiences or conversations. This means that while the memory reconstruction may be honest, it may not be absolutely accurate.

Memory reconstruction is not total; we fill in the gaps using our own prejudices, opinions, scripts, social and cultural background, expectations, our training, and experiences or conversations after the event.

A number of different factors influence how the gaps are filled in. These are addressed below.

Inferences

An interviewee may draw inferences from any number of things including:

- their past experience
- their perception of what the police want to know
- how we ask questions of them.

The last two of these points are of particular importance to the investigative interviewer. An interviewee may never have spoken to the police before and their knowledge may be limited to television and movies. It is natural for the person to want to please the interviewer. In doing so, recall may be distorted in an attempt to meet with the expectations that they perceive you hold. You can counter this distortion by clearly explaining what you expect from them. For more details refer to the section on 'Engage and Explain'.

An interviewee can also draw inferences from the way questions are worded. For example, research has shown that variations of up to 25 cm in a person's height have been reported depending on whether the interviewer asked how 'tall' someone was compared to how 'short'. A more appropriate way of asking this question is 'What was their height?'

Loftus and Palmer (1974) conducted a famous study in which two groups of participants were shown a slide sequence of a traffic accident involving two cars. They were then asked a series of questions one of which referred to the speed of the vehicle. Within this question a different verb was used for each group to describe the collision. One group was asked, 'About how fast were the cars going when they smashed into each other?' The other group was asked 'About how fast were the cars going when they hit each other?' A week later both groups were questioned again and asked if there was any broken glass in the slides they had seen. Although there was in fact no broken glass at all, 32% of the group that had been questioned with the word 'smashed' responded that there was broken glass compared to only 16% of the group that used the word 'hit'.

The investigative interviewer can use appropriate questioning techniques to prevent inferences being drawn by the interviewee (refer to the section on 'Communication').

Stereotypes

Stereotypes that people hold can be used to fill in gaps in encoded information. Studies have found that witnesses often use their stereotypes of commonly held beliefs about population norms regarding hair colour, eye colour and complexion. In one study 93%

Investigative interviewing doctrine, Continued...

correctly recalled a subject's hair colour as blond but nearly half wrongly reported that the subject had blue eyes.

Memory is affected by our perceptions and attitudes. An example of this would be someone who believes that most 'muggers' are Maori or Pacific Islanders. Let's say this person witnesses a handbag snatch and sees the back of a hooded person running off. When questioned by the police they may confidently state their **genuine belief** that they saw a Maori or Pacific Island youth commit the offence. It is only by careful questioning and listening that you may establish that they could not have known what ethnicity the person was (or perhaps even gender). In this situation, the memory of the witness was affected by stereotypes. Take nothing at face value. Probe the information for as much detail as possible.

You need to be aware that the level of a witness's confidence does not guarantee the accuracy of what the witness says.

Partisanship

Partisanship (i.e. siding with one particular group) has been found to affect the accuracy of a reported event. Consider supporters from two different rugby teams viewing a crucial penalty. Both will believe the other side was at fault. Another example is a fight between two rival gangs. A witness who belongs to one gang is likely to believe the other gang was responsible for the worst violence in contrast to a witness who belongs to the other gang who is likely to believe the opposite. You need to take partisanship on the part of witnesses into account when interviewing and evaluating their accounts. Again, probing should produce more information.

Scripts

Scripts (or schema) are a short cut that the memory uses to assist the processing of large amounts of information. They are preformatted expectations that relate to many of our actions and the recall of our actions. Instead of encoding every piece of new information relating to a particular event we rely on the script that is already held in our memory so that only distinctive information is encoded. This script is our own version of what typically happens in this type of scenario.

In a study by Bower, Black and Turner (1979) participants read a short story about going to a restaurant. When asked to recall the story participants were likely fill in the gaps by adding information about eating and paying for the meal when this was never mentioned in the original scenario.

We have scripts both for events that we have personal experience of and for events that we have not experienced. People who have never encountered a crime still possess detailed scripts for criminal offences which are often based on information gained from television, media or books.

Emotional factors

If someone experiences an emotional event they will often 're-run' it in their mind. This can improve recall of that memory. When the emotions are negative, such as anxiety, they can produce the opposite effect and may interfere with memory recall.

Numerous studies have shown that under certain circumstances people can be influenced into recalling false memories.

For example, a study suggesting memories can be implanted involved showing participants photographs and telling them they were from their childhood, when in fact they were not. When later questioned about events in their childhood the participants

Investigative interviewing doctrine, Continued...

falsely remembered information that related back to the photographs they had previously been shown.

In a study by Loftus and Coan (1993) a 14 year old boy was asked to recall over five days details about four events that occurred in his childhood. Three were true and one was false (this involved a scenario of being lost in a shopping mall). The boy was interviewed about the events in the presence of his sister who was a confederate of the investigators. She provided verbal corroboration of the events occurring. Over time the boy began to report more details about the false event and even rated it as more likely to be true than two of the events that really happened. Other research has shown that it is not just children's memories that can be affected in this way, adults too can have false memories implanted through suggestion.

It is imperative that you do not suggest any information to any interviewee during the course of an interview.

Questioning is critical in aiding memory recall. However the wrong type of questions may in fact cause interviewees to recall memories inaccurately, provide false memories or not recall at all.

Context effects

Physically returning to the place (i.e. external context) where the memory was encoded can aid the recall of information. For example, going back to Police College can result in a flood of memories from when you were a recruit.

In a study by Godden and Baddeley (1975) divers learnt a list of words either on land or 20 feet under water. Later they were separated into two different groups, so some that had learnt the words on land were asked to recall the words on land and some in the water and vice versa for those who learnt the words in the water. It was found that those that learnt the words on the land recalled more of the words when on land and the same occurred for those whose learning occurred in the water. Recall was 50% higher when learning and recall occurred in the same context.

Internal context has also been shown to enhance recall. For example, if someone is feeling happy they are more likely to remember happy events. When interviewing it can assist recall to get the interviewee to 'set the scene' by mentally reinstating both where they were and how they felt at the time (for more details refer to the section on the 'Free Recall Model'). Use your discretion with mental reinstatement involving a traumatic event, as this could distress the interviewee and reduce their ability to recall the event.

Interruptions

Memory recall can be affected by interruption. Have you ever had experience of being interrupted while in full flow and then of not being able to remember what you were talking about? Consider the following situation. Imagine that you are chatting with a colleague in a patrol car and are interrupted by a radio message. When you return to the conversation you cannot remember what you were talking about or the stage you had reached in the conversation. Interrupting your flow can cause you to forget what you were about to say.

If you want witnesses to remember, **do not interrupt them when they are talking.** When they pause because they are trying to remember, do not interrupt or try to help them by guessing what they might be trying to say. Give them time. They will not be consciously aware of what, to you, might be an 'awkward' silence. Let them guide the pace and direction of the interview.

Investigative interviewing doctrine, Continued...

Continued interruptions will cause the witness to cut their answers short, effectively training the witness to answer with short responses. Equally open questions without interruptions will encourage the witness to develop their answers, take time to recall information and provide more evidence.

Contamination and cross-contamination

Contamination

The interviewee's memory of an event may be the most important piece of evidence you have. Like forensic trace evidence, it must be preserved to prevent contamination and deterioration. It is your job, as an investigative interviewer, to do everything you can to minimise the risk of contamination. During interview you should attempt to capture complete, accurate and reliable information. Creating an accurate record of the interview will help counter the effects of memory deterioration that will inevitably occur before court proceedings.

Cross-contamination

Likewise, memory can be cross-contaminated. Cross-contamination occurs when evidence from one source is transferred to another source. By inappropriate questioning and bringing prior knowledge of the matter under investigation into the interview, an interviewer can elicit from a witness information the interviewer wants to hear but is not within the witness's memory and which may be inaccurate.

Example of cross-contamination of an interviewee's memory

The interviewer knows that a suspect who was believed to be driving a blue vehicle has been arrested.

Interviewer: 'What colour was the vehicle?'

Interviewee: 'I don't know.'

Interviewer: 'Could the vehicle you have seen been blue?'

Interviewer: 'Yes. Actually I think it was blue.'

In this scenario the interviewer, through the use of inappropriate questioning, has led the interviewee to provide information that may not be truthful but is what the interviewer wants to hear to support the current evidence.

Cross-contamination from other witnesses is also an area of risk for the investigative interviewer. When there is more than one witness to an event, ideally they should be separated and interviewed before having the chance to talk to others. This is not always possible. Therefore it is your responsibility to ask them not to discuss the incident amongst each other so their individual memories of the event are not contaminated.

Any contamination of the interviewee's memory will adversely affect your ability to establish the truth about the matter under investigation.

Suggestibility

Interviewers must guard against suggesting the answer they want.

Suggestibility is when the response of an interviewee is influenced by what they believe the interviewer will want or expect them to say. The ease with which witnesses in particular will pick up messages from the interviewer has been demonstrated many times.

Investigative interviewing doctrine, Continued...

For example, confessions in the past have been obtained from suspects after lengthy interrogations because interviewing officers consistently refused to believe the suspect's denials. Judges have disallowed the confession where the behaviour of the interviewer could have persuaded the suspect to confess to crimes they did not commit.

How to avoid biasing an interviewee's evidence has become an important issue, especially in relation to the testimony of children in cases of alleged abuse. Investigators, as well as other professionals involved in this field, need to be aware of this.

People vary in the degree to which they are 'suggestible'. It is accepted that those who are known to be vulnerable, for example children and people with learning disabilities, are more susceptible to suggestion and require special protection. Research suggests that a higher proportion of those who pass through police custody need to be treated as vulnerable persons than has hitherto been imagined.

Investigative interviewing should safeguard against untrue admissions of guilt.

Interviewer limitations

You need to be aware that in your role as the interviewer, you too may contaminate the interview. This can occur:

- when you are encoding, storing and retrieving all that is told to you by the interviewee
- through your own verbal and non-verbal communication.

The contamination can be intentional (e.g. an attempt to get the 'best' result) or unintentional. Factors to be aware of are outlined below.

Attention

The information you encode is determined by the degree to which you pay attention and actively listen to the interviewee's account. Selective attention usually determines what information the interviewer attends to and is often dependant on the details that you perceive as being important. Instead, you must attend to all the information an interviewee provides. This is difficult and requires total concentration so that you give yourself every opportunity to encode everything the person says, not just that which you may think is important. This is why writing brief notes throughout the interview is vital. They act as prompts, as cues for probing further, and help you structure an accurate and comprehensive written statement or summary.

Interviewer perceptions may contaminate the interviewer's memory, influence the interviewee's account and place the investigation in jeopardy.

Scripts

Interviewers also use scripts to assist the processing of the large amount of information received during an interview. These scripts are our own version of what typically happens in the sort of crime being investigated, the category or type of witness and the process of interviewing. It may be based on your previous experience with other investigations of a similar nature or from a briefing about the incident. To guide the processing of information, you may unwittingly over-emphasise the information that you receive that supports your script, while distorting or ignoring information that is inconsistent.

Other memory filters

A number of additional filters can influence the memory of an investigative interviewer including:

Investigative interviewing doctrine, Continued...

- **Knowledge of investigation and perceptions.** You may be affected by your previous knowledge of the investigation and your perceptions of the world (which are influenced by your personal background including education, religion, culture, stereotypes, colleagues' views, upbringing, experiences, and the like).
- **Pre-determined hypotheses.** From your knowledge of this investigation and previous investigations, you may develop your own hypothesis about what happened and be particularly attentive to information that fits.
- **Ingredients to prove.** As the interviewer you will be conscious of the ingredients required to prove an offence or to counter the defences to an offence.

All these factors can influence memory in what is called 'confirmatory bias'.

Confirmatory bias

Confirmatory bias is when information is interpreted so that it confirms what you already know, or think you know. Accordingly a complete account may not be elicited from the interviewee as the interviewer believes he or she has all the information that can be provided. In these circumstances, the interviewer may over-control the interview and use inappropriate questions. The resulting account will be a reflection of the interviewer's preconceived ideas rather than an accurate and complete account of what the interviewee knows. In this situation not only do interviewers only hear what they want to hear but interviewees may change what they say in an attempt to please the interviewer.

When an interviewee reports evidence that contradicts what the interviewer already knows or thinks they know, the interviewer can do one of three things:

- include it in full
- distort it to fit the facts
- omit the information altogether.

The last two options are unacceptable, interviewers must make every attempt to include and explore all contradictory evidence in both the interview and any subsequent written statement.

Question strategy

The type of questioning you use can influence the information that the interviewee discloses. You may subconsciously ask questions in a manner that encourages the interviewee to provide answers that support your confirmatory bias. Using open questions minimises the risk of this type of contamination (refer to the section on 'Questioning').

Interviewing requires intense concentration

Trying to remember an incident completely can be hard work. If someone gives you information that supports what you think has happened it is tempting to be satisfied and stop probing further. It is so much easier to use your previous knowledge, stereotypes, prejudices, beliefs, assumptions or expectations of what happened to save the effort of going further. Certainly this may be what often happens, but this process leads to inaccurate information and evidential problems further down the judicial process.

Accurate memory recall relies upon witnesses making the effort to recall as much as they can without not short-cutting the process. Unfortunately, many people do short-cut the process and one of the skills of a good interviewer is to prevent that process.

Investigative interviewing doctrine, Continued...

Standardisation

Unless the interview has been recorded electronically, once you have encoded and stored the information you will have to recall and transpose it into a written statement.

Ordinary forgetfulness will affect this process. When transposing the information in an attempt to produce a 'good' statement the interviewer will often reword what the interviewee says to 'standardise' the account. This may result in a statement that is different from what was actually said. Standardisation will involve:

- making the information sound more plausible
- leaving out contradictions
- recording the information in a manner so it confirms what is already thought to have happened
- recording the information in chronological order
- filtering the information to cover specific ingredients of the offence and defences.

Although statements should be standardised so they are chronological and cover offence ingredients and possible defences, the interviewee's account should never be reworded nor have relevant and admissible details removed. Remember, given the limitations of memory, it is natural for an interviewee to be genuinely mistaken or confused about what they have witnessed. It is your role to help the person remember everything they possibly can so as to establish the truth not to distort information so it supports a preconceived theory.

In one study by McLean (1992) 16 written statements were taken by experienced investigators. The process was also tape recorded at the same time. It was found that statements had important omissions with evidentially significant detail missing. Not one contained all the relevant information. On average, fourteen items of relevant information were omitted per interview.

Before they give evidence in court, which may be months or even years after the event, a statement is used to refresh the interviewee's memory. The 'refreshing' effect of the statement will be more powerful if it is a complete account written in the interviewee's own words. Further, in court witnesses will give evidence according to their memory. If this is inconsistent with their statement they can be open to criticism under cross-examination by defence counsel. In an attempt to undermine their credibility and reliability they may be blamed for the inconsistencies. Highlighting such inconsistencies may lead the judge or jury to form 'reasonable doubt' about the prosecution case resulting in a wrongful acquittal.

Investigative interviewing doctrine, Continued...

Listening

Introduction

International research reveals that investigators will ask an interviewee for an account and then, on average, interrupt the interviewee within 7.5 seconds. New Zealand research produced a similar result, with the average interruption occurring within 6.8 seconds.

One of the most important communication skills is the ability to listen, a skill that many people have to develop. It is easy to jump to conclusions and assume that we know what another person is experiencing or needs. In everyday life we are often selective in our listening and filter out what we think is non-essential information. However when interviewing for evidence it is vital that interviewers are able to listen effectively.

Active listening

Listening is not a passive activity. You must actively process the information that is being provided by the interviewee. Active listening allows you to:

- engage the interviewee and establish a working relationship
- identify topics raised during the interview and therefore manage the conversation
- communicate your interest in the interviewee and their account
- identify important evidential information
- identify gaps and inconsistencies.

To improve your ability to listen, before you start the interview you should:

- select an appropriate place for the interview that will minimise distractions
- plan and prepare for the interview so that you have a greater understanding of what is being said and can compare it to other sources (to assist further questioning)
- keep an open mind about the interview.

The components of active listening are detailed below.

Concentrate

Be attentive to the interviewee and concentrate on what they are saying. Focus on what you are doing.

It is useful to take notes that can act as a memory aid but do not allow this to affect the flow of the interview.

Comprehend

It is important that you gain a full and accurate understanding of what is said and that you identify what are reported facts and reports of opinion. Consider how the information fits in with the information you already have and how it affects your interview plan.

Sustain

Reinforce your commitment to giving the interviewee adequate time and space to talk. Active listening should encourage interviewees to tell you how they feel about an incident. Use attentive silence and do not interrupt (refer to the section below on 'Techniques for effective listening' for tools to assist with this process).

Use listening strategies

A variety of strategies can be used to encourage the interviewee to recall and reveal information. Using non-biasing behaviours to reinforce the interviewee communicating is part of active listening.

Listening strategies that can be used are detailed below.

Investigative interviewing doctrine, Continued...

Listening strategies

Showing you want to listen

It is important that you convey to the interviewee that you want to listen to their account. The following will help you achieve this.

- Inform the interviewee at the outset that you will be giving them time to answer your questions and that you expect them to answer fully and accurately.
- Once you have asked a question, wait for a reply. This will convey the perfectly natural expectation that you wish them to talk to you.
- Always allow the interviewee time to formulate their thoughts and give their replies.

This process has benefits for you. It enables you to have 'thinking time' about where you are in the interview process and where any new information might take you.

Taking turns to speak and allowing the interviewee's contribution

You have all met people who dominate conversations by interrupting and not allowing others their turn to speak. They speak loudly in their attempt to have people listen to their story. When asking a question, they often answer it themselves. These people are only interested in their own agenda, having poor social and communication skills.

During an interview it is the interviewee who has all the important information. You should give the interviewee their turn to talk and the time to do so. This helps them to feel part of a conversation and encourages talking. During an interview you should aim to have them do 80% of the talking.

Remember the purpose of the interview is to obtain the interviewee's version of events. They must be given the opportunity to have their say.

In the initial phases, you will need to speak more whilst explaining the purpose of the interview and setting the 'ground rules' etc. In later phases you will need to listen more as you endeavour to analyse the information being given.

Conversation topics

It is important to let the interview flow naturally from one topic to the next. By listening effectively to the account you will encourage the natural progression of the conversation. It takes a great deal of mental effort on the part of the interviewee to recall something in detail. Changing topics prematurely before the interviewee has exhausted the detail they can or wish to give is distracting and counter-productive. Wait until a more appropriate time in the interview before asking questions about another topic. Finish each topic before moving on. If something comes to mind during one topic that is not immediately relevant, jot it down so that it can be raised later and is not forgotten.

During the **Engage and Explain** phase you will be providing a lot of information and must actively strive to bring the interviewee into the conversation.

In the **Account** phase, the interviewee should provide you with information and will therefore do most of the talking.

Encouragement cues

Nodding of the head or saying 'yes' to encourage the witness to keep talking is likely to be seen as the wrong sort of encouragement by defence counsel. Particularly if that part of the evidence is damning to their case. In those circumstances, the defence would have a good chance of having the interview excluded from evidence and therefore we need to avoid giving this type of 'positive' feedback. An open hand gesture or a brief 'Uh huh' are examples of encouragement cues which are ok to use and are used naturally to

Investigative interviewing doctrine, Continued...

encourage the speaker to continue. It tells the speaker you are interested in what is being said and that you do not wish to interrupt. Use sparingly as overuse may result in the opposite effect and interrupt the interviewee and cause them to think that you do not believe them or that you want them to pause so you can say something.

Insincere use of these techniques when you are not really listening should be avoided as they can easily be detected by the interviewee.

Echo probing

This is the process of repeating a phrase or the last few words of a reply. Its effect is to act like a question to prompt elaboration of a specific point and invites the other person to continue speaking about the subject. It can be particularly effective when a person who has been talking freely, stops speaking. It shows that you are listening and encourages the person to continue. It should not be used too quickly or where the witness is still thinking (indicated by looking away), echoing can easily be an interruption and counterproductive. It is better used as a paraphrase effectively asking a new question using the words used by the witness.

Example of echoing

Interviewee: 'He had a large knife'

Pause

Interviewer: 'Large knife?'

Select relevant phrases or words but do not overuse this technique. Mindless repetition of words and overuse will have the opposite effect to what you intended and can make it seem that you are not really listening, or make you look foolish.

You should take care that any emphasis you place on repeated words does not unintentionally indicate any judgemental feelings about the other person.

Summarising

Use summarising strategically when interviewing by repeating (in summary) what the interviewee has said. This can be done both during the account and at the end of the interview. Summarising has the following advantages:

- it allows interviewees to check your understanding of what has been said and in doing so provides them with the opportunity to make any corrections
- it shows you value what interviewees tell you and encourages them to become increasingly open with you
- it assists you with encoding the information into your memory through rehearsal
- It confirms the account and ownership of the information as correct by the interviewee

When interviewing suspects on visual recording, summarising should be used regularly to lock the suspect into their account and emphasise important aspects of their account to the suspect and anyone watching the interview.

Use summarising with witness interviews to ensure you understand correctly what they have told you and can prepare an accurate written statement. Summarise back to them using their own words using a clarification seeking approach. Explain to the witness that they need to correct you if any part of your summary is inaccurate. Careful accurate summarising is vital as inaccurate summarising can contaminate the person's memory.

Other non-verbal communication

Be aware of both your own and the interviewee's nonverbal communication. To encourage the interviewee to speak you should:

- use eye contact appropriately

Investigative interviewing doctrine, Continued...

- adopt an open posture
- lean forward to listen
- be seated in appropriate proximity
- show empathy in your voice
- avoid distractions such as glancing at your watch
- avoid yawning or fidgeting as these suggest a lack of interest.

Use of silence and pauses

Silence in an interview can be unnatural and uncomfortable for both interviewer and interviewee alike. We all have a natural urge to fill pauses and gaps. Having asked a question, pause so that the interviewee may process what you are asking, access their memory, and formulate an answer. This will take time and concentration on the interviewee's part, so be patient.

When people concentrate hard, they remain silent and normally focus on a neutral space such as the floor or ceiling. By not interrupting this process you may obtain that valuable extra piece of information. Breaking eye contact can usually encourage this to occur.

As the interviewer, wait until the interviewee has finished answering the question before you formulate your next question. Whilst they are answering your question you should be actively listening to what they are telling you, not thinking of the next question. It is acceptable and often beneficial to pause between their answer and your next question – they expect you to act professionally and doing so involves both active listening and asking thoughtful questions.

Silence can also be a powerful tool to use when wanting to prompt an interviewee to speak. After putting a question to a person who is reluctant to answer, or after receiving a reply which needs further elaboration, consider remaining silent. As people normally speak in turns, and your silence is the cue that it is still their turn, the interviewee will find it difficult not to do so.

Finally, remember that no investigator may try to obtain answers to questions by the use of oppression, so use silence with discretion. For example, when a person has said something that you think is patently untrue it can be very effective to stay silent and see what happens. However this might be viewed as unfair if overused.

Investigative interviewing doctrine, Continued...

Questioning

Introduction

All members of the public have a duty to help investigators to prevent crime and identify offenders. This is a civic rather than a legal duty. When you are trying to discover whether, or by whom, an offence has been committed, you are entitled to question any person from whom you think useful information can be obtained (refer to the Chief Justice Note Guideline 1).

Most people will assist your investigations readily, but if a witness is unwilling to answer questions about a particular offence or incident no action can normally be taken. The exception to this rule is when there is a legal obligation to provide information (e.g. under the Land Transport Act 1998).

Basic rules of questioning

The type of questioning you use in an investigative interview is vital. An outline of the basic rules is as follows:

Vocabulary	The language used should be simple, unambiguous and jargon-free so all parties understand what is meant.
Relevance	Each question must have a purpose and not be used to fill time. A well-prepared interview plan accompanied by listening carefully to everything that is said should eliminate repetitive questioning.
Pace	The interviewee must be allowed time to understand the question, think what knowledge they have of the matter, formulate their answer and deliver it.
Interruptions	Interviewers must learn to curb any tendency to interrupt the interviewee as this will break the person's train of thought and stop the flow of information, potentially preventing important facts from emerging.
Control	If a suspect interviewee strays from the point, direct him or her back firmly but tactfully e.g. 'That's very interesting, but before you continue, can you tell me what happened when you first saw the person acting suspiciously in the street?' Suspects often try to take interviewers off track to avoid difficult or evidential topics in the hope that you will be sidetracked and not go back. However this 're-direction' back to topics by the interviewer should be used sparingly with witnesses as they will often move to information that is readily available i.e. what comes to mind and therefore what they are thinking about. In those circumstances we need to ask questions that are compatible with what they are thinking about. Once we have done that, we can move back to the unfinished issue or topic.

Appropriate questions

There are a variety of different types of questions you can use as an investigative interviewer. The types you use should be those that will elicit the most accurate, complete and reliable information. How the first question of the interview is worded is vital to the usefulness or otherwise of any subsequent information provided by the interviewee.

Open-ended questions

An open-ended question is the best type of question and is framed to encourage the interviewee to provide a detailed answer. Advantages of asking open questions include:

- allowing interviewees to give a detailed full account in their own words
- encouraging the interviewee to control the information flow
- minimising the risk of the interviewer influencing what the interviewee says.

Investigative interviewing doctrine, Continued...

The resulting account will have better quality and quantity of information than if other types of questions were used.

Open questions should be used as much as possible during the interview and your full attention is required to observe and listen to everything.

TEDS

Learning to ask open questions is a skill that will take practice. Asking questions using the words represented by the mnemonic **TEDS** will assist with this process:

Tell	Tell me
Explain	Explain
Describe	Describe
Show	Show me

TEDS act as instructions rather than questions and encourage the interviewee to provide a full and detailed account of what they know.

Example of TED style questions:

'**Tell** me everything that happened...'

'You have told me that you saw the guy give the woman a crack. **Explain** what you mean by this?'

'**Describe** the man...'

'**Show** me what happened...'

Another useful instruction is '**Talk me through**... '.

Probing questions

Probing or closed questions are ones that allow only a relatively small range of responses, usually a word or short phrase. These are the second best type of question but should only be used when an attempt to use an open question has failed. They can be used to get specific detail or to probe information given from an open question.

5WH

Who, what, when, where, why and how (5WH) can often be framed as open questions but are also used to elicit short answers. These are appropriate probing questions that can be used:

- 'Who said that?'
- 'What did they say?'
- 'When was that?'
- 'Where were you standing?'
- 'Why did you go there?'
- 'How long were you there for?'

As investigators we want to know the answers to these types of questions and the temptation is to use them to control the interview and minimise irrelevant information. This should be avoided as it causes the interviewee to be passive, interrupts their concentration and affects memory recall. Closed questions are also more likely to provide incorrect responses than they would with open questions.

Investigative interviewing doctrine, Continued...

Instead, you should always start the interview using open TEDS type questions giving the interviewee an opportunity to provide a full account. When open questions are no longer fruitful the 5WH type questions can be used to probe their account for any details omitted.

Example of the appropriate use of a probing question

While interviewing a witness who has already given you a detailed description of the offender but not mentioned the offender's height, it would be proper in this situation to ask the offender, *'What was the height of the man you saw?'*

Be careful when repeating questions to witnesses because they might infer that their initial response was incorrect (it might be better to ask the same question in a different way).

Questions beginning with 'why' should be limited or avoided in interviews with victims and, to an extent, witnesses, because of the possibility they might think you are judging or blaming them.

Inappropriate questions

There are a number of types of questions that should be avoided as they may affect the quality and quantity of the information given.

The ultimate closed questions seek to elicit a 'yes' or 'no' answer, these may start with 'Did you...?', 'Can you...?' 'Would you...?' etc. This type of question will encourage very short answers. Repeated requests for short answers will quickly train the witness to respond with short answers and can reduce the responses to following open questions and TEDS. These types of questions are generally used as a last resort when all else fails.

Leading and misleading questions

Leading and misleading questions imply the answer or assume facts that are likely to be in dispute. Leading questions imply the correct response whereas misleading imply an incorrect response. These types of questions may provide the interviewee's with knowledge or ideas they have not previously formulated.

Example of a leading or misleading question

The interviewee has not mentioned the type of car but the interviewer says:

'Was the car you saw driving off, a station wagon?'

If the car was a station wagon this is a leading question, if it was a van this is a misleading question.

Interviewees may give the expected answer for a variety of reasons including:

- they are trying to be helpful because they are confused or frightened
- they may see you as a person in authority and believe you know more about a subject than they do and will often defer to what you appear to know.
- they may be susceptible to suggestion and incorporate your suggestion into their own memory

This is especially true for young children and people of a limited mental capability, though is not limited to these groups. When this happens, the integrity of the evidence obtained during an interview might be challenged in court on the basis that the interviewer influenced the interviewee's recall. The information you provide may also be incorrect and reduce the quality of the investigation and the evidence.

Investigative interviewing doctrine, Continued...

Forced-choice questions

These types of questions leave the interviewee with a small number of alternatives to choose from. There is no guarantee that any of the alternatives are the correct option. The interviewee may guess the answer by selecting one of the options given, even if they know the correct option is not provided. You should never use these types of questions.

Examples of forced-choice questions

Interviewer: 'Was the car dark blue or black?'
'Did it happen on Monday or Tuesday

By giving the interviewee only two alternatives, both of which could be wrong, they may pick one in an attempt to assist the interviewer.

Multiple questions

Asking more than one question at once is a multiple question and can lead to confusion. Firstly, the interviewee does not know which part of the question to answer and must choose between them. This results in either part of the sub-question being unanswered or additional cognitive loading on the interviewee who is trying to remember the sub-questions at the same time as retrieving information to answer each sub-question. Secondly, when an answer is given, the interviewer does not know which question was answered. Make sure you ask only one question at a time.

Example of a multiple question

Interviewer: *'Did you see him? What was he wearing? Did he have a jacket on?*

If the interviewee answers 'Yes' what question are they answering?

Complex questions

Avoid using grammatically complex questions. They are confusing and reduce the confidence of the interviewee. Where possible, keep your language simple and at the level used by the interviewee.

Example of a complex question

Interviewer: *'You said you've never been there before but I think you did go there, and that you said you've never been there before because you know that you would get in trouble for being there because you know that the place was burgled. What do you say to that?*

Negative phrasing

Avoid using negative phrasing as it is confusing for the interviewee. This is especially true for people who have English as a second language.

Example of negative phrasing

Interviewer: *'You're not employed are you?'*

In this situation if the interviewee was unemployed they could answer 'Yes' or 'No' and be quite correct.

Opinion type questions

Avoid asking questions that include a personal statement or opinion.

Investigative interviewing doctrine, Continued...

Example of an opinion type question

Interviewer: *'We know you did it, so why don't you just admit it?'*

Jargon

Avoid using jargon of any sorts. Police jargon such as "decamped" is not understood by everyone. Use everyday language that is unlikely to make someone feel inferior or be misunderstood.

Investigative interviewing doctrine, Continued...

Part 3 - The Peace Interviewing Framework

Introduction

This section is an introduction to the PEACE interviewing framework, which has been adopted by the New Zealand Police as a good practice model.

Interviewing framework

Investigators should conduct all interviews using the PEACE interviewing framework. This involves the following phases:

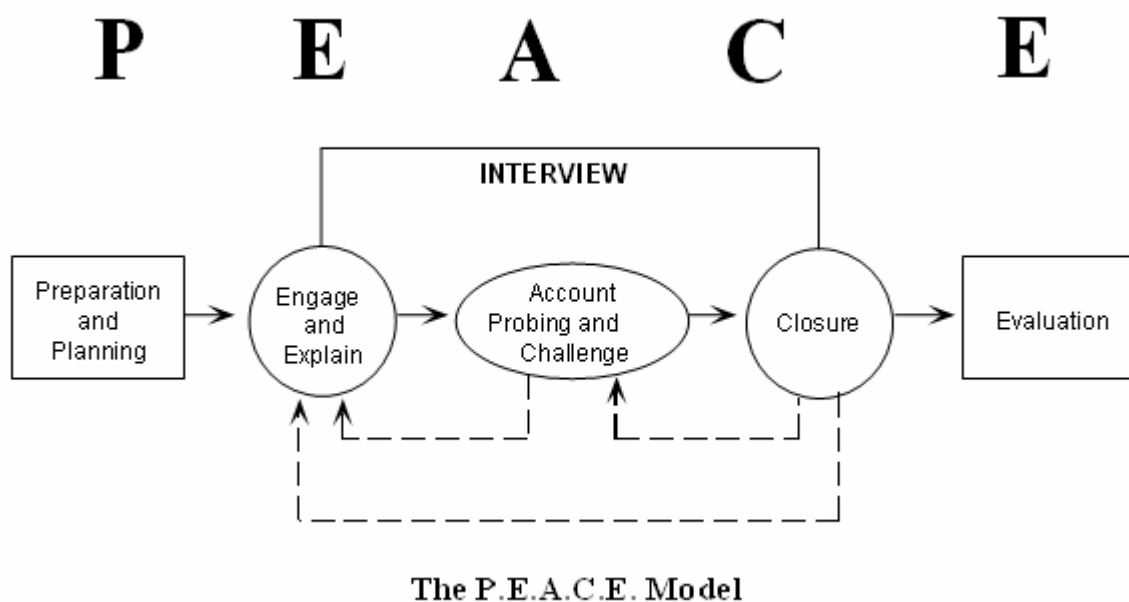
Phase	Action
1	Planning and preparation: Review available information and establish interview objectives.
2	Engage and explain: Develop rapport and explain interview processes and procedures.
3	Account, probe and challenge: Using an appropriate interview model gain an account of events, probe the account for more information and challenge any inconsistencies.
4	Closure: Conclude the interview and address any concerns.
5	Evaluation: Evaluate how the interview impacts on the investigation and the performance of the interviewer.

Time should be spent on each phase but no rigid boundaries exist between the phases. The amount of time on each phase should be determined by the seriousness of the offence.

What is the PEACE interviewing framework?

This part of the doctrine expands on the five phases of the PEACE framework. PEACE is a professionally validated, evidence based framework for investigative interviewing.

Figure 4: The PEACE model of investigative interviewing



Investigative interviewing doctrine, Continued...

The PEACE framework provides the structure for all investigative interviews whether with witnesses or suspects. The term interview structure recognises that the interview is something we build or create. As the interviewer, you are responsible for the planning and conduct of the interview.

A well-planned and carefully conducted interview has a good chance of obtaining complete, accurate and reliable information. The PEACE framework helps you do that.

Movement between phases in the interview

The 'PEACE framework' diagram shows lines linking the phases of the interview. Some lines are solid, indicating that there is a natural forward movement from one phase to the next. For example, explaining the purpose of an interview is a task that may require repetition and redefinition throughout the interview. Similarly **Closure** is linked back to **Account, Probing and Challenge** with a dotted line. This indicates that you might need to re-open discussion of the interviewee's account during the **Closure** phase. The interviewee may recall some new information or may wish to test your memory of what they have previously said.

When this happens you will naturally return to the **Account, Probing & Challenge** stage. It is important to remember that there are no rigid boundaries between the phases and flexibility is required throughout.

Time should be spent on each phase but no rigid boundaries exist between the phases.

The PEACE framework for every interview

For every interaction requiring you to obtain information, whether conducting a vehicle turnover or interviewing a suspect for a homicide, the PEACE framework can be applied. Time must always be spent on each of the phases and the type of interaction will determine how much time you spend.

Example of applying the PEACE framework with the turnover of a speeding vehicle.

Planning and preparation: you must decide why you are stopping the vehicle, where is the best place to pull over, whether you will ask the driver to get out of the vehicle or remain inside, what you will say to them.

Engage and explain: you will spend time introducing yourself to the driver and explaining to them why you asked them to stop.

Account: you will ask them why they were speeding, show or explain the evidence of the recorded speed and discuss their speeding with them.

Closure: you will either issue a ticket or give them a warning depending on the decision you have made and explain why you have made that decision. You may give them your card and ask them to contact you if they require any advice or further information.

Evaluation: you will consider what else needs to be done such as completing any further details required on your Infringement Offence Notice and placing the copy in your supervisor's tray. You will reflect on your interaction with that person and consider what went well, what did not and how you might be able to deal with the situation better next time.

Investigative interviewing doctrine, Continued...

Interview models

Within the PEACE framework you can apply different interview models to elicit information. The models known as 'free recall', 'cognitive interviewing' and 'conversation management' are examples of these and will be detailed in this doctrine. These models are used during the actual interview process so affect the engage and explain, account and closure stages of PEACE.

Time taken to conduct interviews

Learning to use the PEACE framework with the free recall or conversation management interview models will take practice. Initially you may find that your interviews take longer as you are still learning the skills. Once your skills have developed you will become more efficient at interviewing and find that any extra time you do spend interviewing will be due to the increased quantity and quality of information you generate. You will find that by asking the right questions and allowing the interviewee to give their recall of events without interrupting is a more efficient way of producing a complete and accurate account than continuous questioning. Electronically recording suspect interviews will also save you the time consuming task of writing down everything that is said in the interview.

In addition, higher quality interviews will save you time later during the prosecution process. The PEACE framework is flexible and you will develop the ability to tailor the interview so that the amount of time spent matches the investigation needs.

Investigative interviewing doctrine, Continued...

Planning and preparation

Introduction

This section will detail the procedures involved in the first phase of a PEACE interview: planning and preparation.

Summary

How much time should be spent on planning and preparation?

All officers should spend time planning and preparing for an interview. The amount of time will depend on the circumstances of the case - it will vary from 5 minutes to weeks.

What should be covered when planning and preparing for an interview?

When planning and preparing for an interview the following should be taken into consideration:

- interview objectives
- investigatively important topics
- interviewee profile: identity factors and current state
- legal requirements
- interview structure
- contingencies for interviewee reaction
- practical arrangements

Written interview plans

Where possible a written interview plan should be completed.

Why plan and prepare?

Planning and preparation:

- is one of the most important phases in effective interviewing
- should be carried out no matter what type of interview is being considered, whether it is with a witness or suspect
- ensures that you are ready to conduct an effective and ethical interview.

Each factor should be considered in relation to the others when preparing for an interview. The circumstances of each case will determine the importance of each variable and how they impact on one another. For example, when and where the interview takes place may be affected by the need for a nominated adult or an interpreter to be present.

The amount of time you spend planning and preparing for an interview may vary from minutes to weeks depending on features such as the time available and the severity of the offence. Regardless of the pressure you are under you should always spend a minimum of five to ten minutes planning and preparing (except in those circumstances where you are stopping a car or attending an urgent event).

Whatever time restraints you are under, always make time to plan your interview.

Sources of information

There are many sources of information available including:

- information contained on the investigation file
- a full NIA check especially of a person's Criminal History, Links, 'Records'
- speaking with other staff who have previous knowledge of the interviewee or the interviewee's family and/or associates
- records held by Youth Aid Section
- information held by your local Intelligence Section
- information held by M.O. Section, Police National Headquarters

Investigative interviewing doctrine, Continued...

- examining historic files relating to the interviewee
- any previous statements or explanations made by the interviewee
- checks with other government agencies
- search warrants on bank accounts, telephones and so on.

What sources you use will be dependant on the time available and seriousness of the offence. Use these sources to address the different categories detailed below.

Interview objectives

When interviewing suspects you should always read and analyse all information available about the investigation before starting the interview. For an enquiry file this translates into reviewing all file documents including statements (previously made by the interviewee and other persons), reports, jobsheets, notebook entries, other documentation, examining any relevant exhibits and, if the circumstances warrant it, a visit to the scene. This is not necessary when interviewing witnesses as minimising the information the interviewer has can minimise the possibility of accidentally giving information to the witness and influencing their evidence.

If you are reacting to information provided by the Communication Centre this phase may merely involve obtaining the full details over the radio and ascertaining any further details from the informant.

Knowledge of the incident and details of what was reported may indicate whether an interviewee is likely to be co-operative or hostile, use this to risk assess the situation but try not to pre-judge the interviewee's response.

When reviewing the file you will also need to consider your strategy by asking such questions as:

- which persons need to be interviewed and in what order?
- why is a particular interviewee's viewpoint so important?
- what information do I now need to obtain?
- do I interview the interviewee now, or wait until I have obtained more information from other sources?

This will help ensure that you obtain relevant and useful information from the interview.

With all the information established so far, decide on the purpose of the interview and set objectives. The main objective will always be to obtain complete, accurate and reliable information from the interviewee. But there will also be additional objectives that you have identified, these may include:

- covering the ingredients of the offence and identifying possible defences
- obtaining evidence
- establishing and corroborating facts obtained from victims, witnesses, suspects, scene and exhibits
- determining whether a suspect should be prosecuted, warned or eliminated from the investigation
- linking victims, witnesses, suspects, scene and exhibits
- obtaining an explanation for actions taken (with suspects)
- locating, identifying or recovering articles
- gathering intelligence about the identities of criminals, and their activities
- cultivating human sources.

Every interview must be prepared with the needs of the investigation in mind, but these objectives must not be met at any cost. You must behave ethically, fairly and reasonably.

Investigative interviewing doctrine, Continued...

Investigatively important topics

With both witnesses and suspects there are topics that you will need to explore for the purposes of the investigation - these are called investigatively important topics. You need to ascertain what evidence you already have, what needs to be established and how the interview might contribute to this process. Clearly identify all investigatively important topics such as possible offences, ingredients to prove and any defences that might be offered.

The main areas to consider are:	
Intent (mens rea)	What was in the suspect's mind at the time? Why did the suspect commit the crime? What evidence is available to infer the suspect's intent?
Action (actus reus)	What did the suspect do?
Method (Modus operandi)	How did the suspect commit the crime?
Defences	What possible defences are open to the suspect?
Identity	How is the suspect linked to the offence?

It is your responsibility to understand the ingredients required to prove any criminal offence.

If you complete a witness interview without covering ingredients and probable defences, it is likely that a re-interview will be required. This should be avoided as it is both time consuming and could affect the perceived integrity of the interviewee later in court.

There are a number of publications that can be accessed by an investigative interviewer that provide the ingredients to prove and defences for criminal offences for example: Adams on Criminal Law. If you are unsure, consult your supervisor, a member of the CIB or a legal adviser.

Interviewee profile: identity factors

To interview effectively you need to build a profile of the interviewee. You will need to ensure you have any available background knowledge. Consider what you know about the interviewee, what you need to establish, and any information to meet their individual needs. Elements which will help you develop an effective interviewer/interviewee relationship are as follows:

Age

Children, young persons and the elderly require special consideration. Knowing their age will help determine the most appropriate time for the interview and whether a nominated adult, support person or referral to a trained child evidential interviewer is required. If you do not feel able to make an informed decision, get advice from your supervisor.

Cultural background and language

Cultural background can affect what is and is not appropriate behaviour during the interview. For example: women from certain ethnic groups may not want to be interviewed by male officers. Similarly, some interviews may require a more formal or informal approach, depending on the interviewee's cultural background. You should also consider matters such as how their body language may be different given their cultural background and whether the interviewee has proficient English so that you can understand them and they can understand you. Think about using an interpreter.

Investigative interviewing doctrine, Continued...

Gender

All investigators regardless of gender, should be capable of carrying out effective interviews. Selection for a particular interview should be on the basis of their competency not gender.

Previous contact with police or other government agencies

This knowledge will assist you identify any warning signs that have previously been noted e.g. factors that may impact on your safety during the interview. Background checks may reveal information about the types of offences committed, methods used, general behaviour when interviewed or if arrested. That said, it should be noted this attitude and behaviour may have been in response to the situation at that time.

Other government agencies such as the Department of Corrections, Customs, and Child Youth and Family Services may also have valuable information that may be of assistance.

Domestic circumstances

Knowledge of an interviewee's domestic circumstances may provide valuable information on the influences on their life and what is important to them.

Consider speaking to members of the family, relatives, associates, colleagues and neighbours but be aware that if you speak to these people first they may in turn inform the interviewee that you have spoken to them. NIA links may also assist you with establishing the interviewee's family and associates (Family Violence records may be invaluable in this respect).

Employment and routines

This will help you understand when is and is not an appropriate time for the interview. It also will help you build a profile of the person which may assist you with developing a working relationship with them.

Educational background and intellectual ability

Knowing something of a person's educational background and achievement can provide an indication of their vulnerability. These types of interviewees require special consideration.

For example, interviewees with an intellectual disability may not understand their rights, the significance of your questions and the implications of their answers. It may be appropriate to arrange to have a support person present. If you do not feel able to make an informed decision, get advice from your supervisor.

Physical, learning or mental disorder or disability

Interviewees may be vulnerable because of the condition of their physical and mental health. These interviewees require special consideration. You should be alert to signs and symptoms of health problems during your planning and preparation. Again, it may be appropriate to arrange to have a support person present.

Interviewee profile: current state

While identity background checks are important, you should keep an open mind as historical details may lead to pre-judgements that are no longer valid. Speak to any officers that have had contact with the interviewee more recently to determine current emotional and physical state. You should also use the factors below to make your own assessment during the 'Engage and explain' phase of the interview.

Investigative interviewing doctrine, Continued...

Emotional state

Traumatic experience

Consider the experiences the interviewee has recently undergone, either as a witness or suspect. The interviewee may be distressed as a result of the incident and this may be heightened if asked to recall the event. Bear in mind that trauma may also affect their memory. It may be appropriate to delay the interview because of the person's need for treatment, counselling or social support.

Consider your own mental and physical state. After witnessing an incident you may not be in a fit state to conduct an effective interview.

Fear of intimidation/recrimination

When an interviewee fears for their safety this will often be their primary concern and may detract from the quality of information they give. Consider how to address these concerns before conducting the interview.

Emotional factors not related to offence

Bear in mind that the offence is not the only thing taking place in the interviewee's life. There may be other significant events taking place that should be catered for in your planning such as bereavement, sickness, job loss, moving house and separation. Even more everyday factors such as childcare and parking can cause an interviewee to be distracted.

Physical state

Physical injury

The interviewee's physical health is always a priority. Make an assessment and arrange for medical assistance if required. Delay the interview if need be.

Tiredness

If the interviewee is exhausted you should consider delaying the interview. This is especially true for witnesses. You want to get the best possible information from them, therefore this requires them to be alert and able to concentrate. With a suspect you may only have a limited opportunity to interview them, so balance the need for an interview with the need to be fair.

Intoxication

If the interviewee is intoxicated from alcohol or drugs, it may be unfair to interview them at this time. These types of interviewees require special consideration. Consider delaying the interview until a more appropriate time.

Legal requirements

Witnesses

Children, the intellectually impaired and adult victims of sexual abuse must be interviewed by an appropriately trained person.

Some types of witnesses may be eligible to have their evidence presented by way of a visually recorded interview. Legal requirements for these types of interviews are specified in the Evidence Act 2006 and the Evidence Regulations 2007.

Suspects

There are a number of legal requirements that affect the conduct of investigative interviews with suspects. When conducting interviews, investigators must comply with:

- Evidence Act 2006

Investigative interviewing doctrine, Continued...

- Practice Note on Police Questioning
- New Zealand Bill of Rights Act 1990
- Crimes Act 1961
- Children, Young Persons & their Families Act 1989
- Police Act 1957

Included in your considerations should be the following:

- should I caution the interviewee?
- how will I ensure they understand their rights?
- if they refuse to be interviewed what will I do?
- without an interview, is there sufficient evidence to arrest?
- if they are free to go, how will I ensure they understand this?
- if the interviewee asks to speak to a lawyer, will I speak to the lawyer and if so, what will I say?

These are fundamental issues you must be clear about. For more information refer to 'Investigative Interviewing: Suspects Guide'.

Interview structure

Consider which approach you will use to interview the interviewee (e.g. free recall or conversation management, refer to the section on 'Account'). You should note that flexibility is required throughout and you may not be able to stick rigidly to one particular model.

Establish the likely parameters of the interview and consider an appropriate opening question(s). Decide what investigatively important topics need to be covered including possible offences, ingredients and probable defences. You will need to address these as separate topics if the interviewee does not discuss them of their own volition.

Identify any likely inconsistencies, or challenges you already have, and think about how you will deal with these.

Contingencies for interviewee reaction

You should plan ahead for every possible eventuality, especially when dealing with suspects, including if they:

- are fully co-operative and give you a truthful account
- give you a dishonest account
- exercise their right to silence.

You should plan how you will deal with each of the above situations. For example, if a suspect refuses to be interviewed be prepared to decide whether to arrest or release them.

Practical arrangements

Whether with a witness or a suspect practical arrangements are an important consideration when planning and preparing for an investigative interview.

Who should be present?

Decide who should be present during the interview. Consider whether a support person, nominated person or interpreter is required. Brief them as to their role.

Where the interview should take place?

The location and physical layout of the interview is important because it affects the relationship you are able to establish with the interviewee.

Investigative interviewing doctrine, Continued...

Example:

Children interviewed about their school, friends and teachers replied differently according to setting. When interviewed in the playground they were far more forthcoming than when interviewed in the classroom. They tended to respond with a much greater variety of content. Basically it seems that the informal setting of the playground encouraged spontaneous speech, whereas classroom interviews were more constrained.

The setting may affect the interviewer as well as the interviewee. Being aware that this is the case, it may be necessary to make a special effort to overcome the drawbacks of particular settings. You should also consider your own safety. No interview is worth placing yourself at undue risk. Supervisors are responsible for ensuring that interviews are carried out in circumstances that are appropriate.

Witnesses

Witnesses may be interviewed at a variety of locations e.g. a designated witness interview room, another location in a police station, their home or somewhere else nominated by the police or the person involved. You must make every effort to ensure the location is private, reasonably comfortable quiet, and free from distractions. Remember that recalling information from memory requires concentration and therefore somewhere quiet is desirable. Is it appropriate to use the person's house or place of work? If there are exhibits can you get them there?

You also need to consider the possible implications of interviewing a witness at home or at work, if either place was the scene of the crime such as other people present and associating their home with a traumatic experience.

Suspects

These should normally be carried out in an interview room at a police station using visual recording equipment. If you have to interview a suspect elsewhere, give the same consideration to privacy, etc. as for witnesses.

When the interview should take place?

You should always allow sufficient time to conduct your interviews. If you are working as a response unit inform the Communications Centre and your supervisor that you are conducting an interview.

Your supervisor is responsible for deciding whether an incident that is reported is so urgent that you should suspend the interview.

Ideally witness interviews should be conducted immediately, as delays may prejudice the investigation, however, this may not always be possible. If the time is unsuitable for a witness, they do not want to be there, or are worried about outside factors like childcare or parking, the interview will be less effective. Make sure you have plenty of time – interviews should not be rushed.

When a suspect interview can be conducted will be affected by legal requirements and the availability of interview rooms.

Type of recording

Consider whether it is appropriate to electronically record the interview. With suspects, you should conduct a visually recorded interview. With witnesses, a written statement will generally be taken. If you think the interview meets the criteria of section 103 of the Evidence Act and that visually recording the interview should be considered.

Investigative interviewing doctrine, Continued...

Equipment

Make sure you have all the necessary forms and equipment required. Check in advance that all the equipment is working correctly. Ensure you have the appropriate communication aides available - such as a pen and paper for drawing a sketch plan.

Seating arrangements

Consider the following for your interview:

- how to arrange the seating – how closely to sit, the positioning of the chairs (10 to 2 is usually the best position), the distance from other items in the room
- whether you want a table in the room and where it should be positioned.

If visually recorded, consider whether the interviewee is:

- clearly visible on the electronic recording (remember you want the jury to see their body language)
- directly facing the camera should be avoided and an angled view would facilitate better communication between yourself and the interviewee yet also make the interviewee reasonably visible to the camera angle.

How you arrange the room will differ depending on who you are interviewing.

Radios

It is distracting for both you and the interviewee to hear your radio (and looks unprofessional to anyone watching the visual recording). Turn it off during the interview.

Searching premises

Where necessary arrange for photographs or a video recording of the scene. If that is not practicable then make or obtain a sketch plan. This evidence gathering will assist you and other investigators to orientate themselves. It will provide information which may be needed to conduct an effective challenge to a suspect's account.

This process will also assist the prosecution when presenting the case at court as well as members of the jury when they try to visualise the scene. Remember: a picture is worth a thousand words.

Exhibits and property

Some exhibits and property may be too large to show in an interview room. Alternative arrangements may need to be made such as using photographs or video recordings of the items. All property should be clearly marked and identified to assist in the interview.

Exhibits must be in appropriate packaging to preserve trace evidence and eliminate the possibility of cross-contamination.

If you intend to use the exhibit as a key tactic in the interview consider whether you want it displayed in the interview room from the beginning or whether you want to introduce it at an appropriate time.

Monitoring

Consider whether it would be advantageous to have your interviewed monitored by a supervisor or colleague. Do not be afraid to ask for assistance.

Putting allegations to the suspect

Prepare a series of allegations to put to the suspect should they invoke their right to silence. This should be a maximum of 3 to 5 allegations detailing to them the evidence that has been gathered and for which you are seeking an explanation e.g. *'My investigation has produced a witness who can identify you running from the scene of last night's burglary; can you explain what you were doing there?'* Such allegations must be

Investigative interviewing doctrine, Continued...

based on evidence which would withstand the scrutiny of the court. They should be put to the interviewee in the interests of fairness – it is their right to know the nature of the allegations and why you want to interview them.

Your interview plan is part of the investigative process so should not be disclosed (See Criminal Disclosure Act Section 16(1)(c)(iii)).

Investigative interviewing doctrine, Continued...

Engage and explain

Introduction

Engage and Explain represents the second letter of the PEACE mnemonic, and is the first phase of the actual interview. During this phase you begin to establish a relationship with the interviewee. Engage is the first step in order to encourage conversation and includes building rapport. Explain is the step by which you help the interviewee understand the purpose of the interview.

Engage the interviewee

To establish rapport with the interviewee Investigators should:

- introduce themselves
- personalise the interview
- discuss neutral topics
- address any concerns.

Investigators should maintain impartiality by:

- keeping an open mind
- using open questions
- active listening.

Explain interview procedures

During the explanation of the interview procedure ensure the following is covered:

- reason(s) for the interview
- routine(s) that will be adopted
- the interview structure.

Ground rules for the interview

Investigators should explain the following to the interviewee when using the free recall model:

- need to concentrate
- report everything
- transfer control

Engaging in conversation

Engaging someone in conversation is not always an easy task, especially if the person is a stranger. Factors such as their background, age and gender may also make it more difficult. The witnesses and suspects you interview will usually be strangers to you and from a wide range of backgrounds. The way you engage with them will therefore not be the same in every case.

It is your role to generate an atmosphere that encourages the interviewee to converse with you in an open manner.

It is not your role to express disapproval of any offence the suspect may have committed. Rather, you are there to get complete, accurate and reliable information. To do this you must establish a professional working relationship with the interviewee.

Establishing a professional relationship with the interviewee is vital to the success of the interview.

Managing first impressions

First impressions occur immediately and tend to be lasting. Creating a negative impression will impact negatively on the rest of the interview. For some interviewers building rapport will come naturally. For others, these skills need to be developed

Investigative interviewing doctrine, Continued...

through practice. Essential to success is finding a genuine but professional approach that suits your personality. This section will identify factors that can help.

Factors that may make it difficult to manage first impressions include anxiety, which may come from both the interviewer and interviewee. You need to create a positive atmosphere and reduce interviewee's anxiety to enable maximum memory recall. Anxiety on your part may be because you may believe that a witness is reluctant to speak to you or that a suspect has been advised not to answer your questions. Anxiety on the part of the interviewee may be because they have not had any previous contact with police. As a result both parties may enter into conversation reluctantly, thereby confirming their anxiety.

Therefore you must plan how you are going to manage the opening of the interview.

As discussed, your **non-verbal communication** and clothing can influence the attitudes of other people towards you. If an interviewee initially sees you as impatient or unsympathetic they will interpret your subsequent behaviour in that light. They may respond in a way which makes you feel impatient and unsympathetic even if you were not to begin with. Adopting an approachable, confident and straightforward manner will maximise your chances of obtaining high quality information.

Treat interviewees the way you would wish yourself, family or friends to be treated.

Greeting and personalising the interview

Your first contact with the interviewee will often determine how well the interview proceeds. It is important to establish trust and lay a foundation for successful communication. Plan how you are going to introduce yourself and when possible greet the interviewee by his or her name.

Tell them how you would like to be addressed and find out how they would like to be addressed. Using that name will demonstrate you have respect for them as an individual. Because you want to create an equal relationship, you may need to adapt to the circumstances. For example, if the interviewee wants you to call him/her by their first name, you should suggest they also call you by your first name.

Regardless of who the person is do not prejudge them - keep an open mind and remain objective. With a suspect adopt a neutral position, do not presume innocence or guilt. Research has shown that this is essential to establishing a sound professional relationship with the interviewee.

Informing suspects of their rights

If you are dealing with a suspect and you have a legal obligation to inform them of their rights, do so in a conversational manner. Reciting their rights quickly in a monotone voice as though reading out a list will diminish any rapport already developed. Ensure that they understand what you are saying.

Establishing rapport

To establish a working professional relationship with the interviewee you need to treat them as individuals with a unique set of needs. You can do this by personalising the conversation and establishing rapport.

For example, by:

- how you address the interviewee
- establishing his/her immediate needs/concerns (e.g. how long the interview is likely to be, who is looking after their children)

Investigative interviewing doctrine, Continued...

- being aware of physical needs (e.g. for water, a cigarette break, the toilet)
- explaining to them what is happening and keeping them informed if this changes
- showing an interest in them and their individual circumstances
- showing empathy as appropriate
- treating them fairly and with respect
- putting aside any responses you have to an interviewee that are a result of a stereotypical image based on culture, clothing, speech, behaviour etc
- discussing neutral topics that can be answered positively to create a positive mood
- using open questions.

During the interview it is up to you to convey to the interviewee that you are genuinely interested in their comments, views and statements. Use active listening and non-verbal communication to show you are interested in what they are saying.

Active listening and showing genuine empathy are key factors in building rapport.

Sometimes your efforts may not be effective as you feel they could be. This could be due to personality differences or the offence may be such that the witness or suspect asks to talk to another officer. In such circumstances you must consider whether to stop the interview and find someone else to conduct it. The new interviewer would need to be fully briefed about the interview to date.

Establishing a professional, working relationship is as important in a suspect interview as with any other. You may find it takes more effort because of the statutory requirements.

You must always enter an interview with an open mind and use open questions. Speaking in a slow, calm and relaxed manner will induce the interviewee to do the same.

Explaining suspect interview procedures

As you engage the interviewee in conversation you can begin to explain the purpose of the interview and the form it will take. This will consist of four main elements:

- reason(s) for the interview
- routine(s) that will be adopted
- expectations for the interview
- outline of the interview

In fairness to suspects (whether arrested or not) you must tell them what the interview is about. Having an understanding of the degree of jeopardy they are under is necessary as it may influence their decision on whether or not to have a lawyer.

Routine(s) that will be adopted

Whilst you may be familiar with interviewing and the routines that are involved many interviewees are not. It is useful therefore to explain these routines at an early stage to help relax the interviewee. Do not assume that an interviewee is conversant with police investigations and the criminal justice system. Explain what is happening as suspects who feel out of control or ill-informed are likely to be cautious about giving information.

Suspect routines

The routines include:

- introducing and explaining the roles of all persons present (if visually or audibly recorded this must be done whilst recording)
- explaining the methods used to record the interview
- explaining you will be taking notes during the interview
- if applicable, explaining the introduction of exhibits.

Investigative interviewing doctrine, Continued...

Expectations

Expectations may include some ground rules and or additional requirements:

- that you will try to be clear in your questions but if they do not understand, that they will tell you that they do not understand
- that they will listen to your questions and think carefully about their answers
- if they do not understand a question then you will ask it another way
- if they do not know the answer to a question, then they should say so

Outline of the interview

You should explain to the interviewee that they will be asked to give their account of the incident under investigation. That you will ask them for their account of what happened and then you will ask questions to expand certain points if needed.

At this stage, give the interviewee a chance to ask any questions or express any concerns that they may have about the process.

Explaining suspect rights

With suspects a number of legal requirements must be complied with to ensure they are aware of their rights. The procedural elements of suspect interviews should become part of establishing a professional working relationship. Their purpose is to inform the suspect of their rights and what is going to happen.

There is information that you must give in accordance with the Chief Justice Practice Note on Police Questioning and section 23 New Zealand Bill of Rights Act 1990. It is vital for you to be familiar with these provisions before you commence any suspect interview.

Your manner should remain conversational, even when informing the suspect of their rights. Ensure the suspect understands their rights. Ensure you explain it to them in a language and manner they understand. If you are unsure, ask them to explain the meaning back to you using their own words

Having complied with these procedural requirements it is good practice to remind the suspect why they are being interviewed. This should be done in a non-judgemental way.

You should assure them that they will soon be able to give their account of what happened and clear up any misunderstandings that may have occurred. Tell the suspect that you want to get to the truth of the matter. Do not ask any non-procedural questions at this stage.

Explaining witness interview procedures

Many witness procedures can also be used with a co-operative suspect, together with the legal requirements associated with suspect interviews.

Reason(s) for the interview

For many, this will be their first contact with police, therefore it is important to ensure they have a clear idea of what is expected of them. The interviewee may know why they are being interviewed, but it would be wrong to assume that to be the case without first checking. They may be unclear of the potential importance of their contribution to the investigation or that the information they provide may be used as evidence and may be presented to a court. Whilst we are required to make this clear to suspects, witnesses are sometimes left to read their statement, only realising their own criminal liability when coming to the last page of their statement. Whilst we would not wish to put witnesses off providing information in statement form, it is only fair that they know what they are signing for.

Investigative interviewing doctrine, Continued...

Start to transfer control to the interviewee by asking them why they think you want to talk to them. If they don't know, explain to them that you believe they have information that will assist in your investigation. Be careful not to contaminate their memory by providing too many details.

Ground rules for witness accounts

Once you have explained and answered any questions about the interview procedure, you should explain the 'ground rules':

The following should be covered after the interview procedures have been explained:

- **Report everything**

Tell them you want them to give an account of all they know in as much detail as possible. Not to edit their account but tell you everything that comes to mind – including all the information they are not confident about or think may be trivial or partial. Take you through it in their own time and pace.

- **Concentrate**

Tell them that you understand that considerable effort and concentration is required, so they will be given time to remember and provide their account. That you understand that this may be difficult.

- **Transfer control**

Tell them that you weren't there so you don't know what happened. You want them to do all the talking because they have the information you want to know. This is not like a normal conversation because you want them to give you as much detail as possible.

If they don't know something, they should say so. They should not be influenced by what they think you or others might want them to say. They should correct you if they feel you have misunderstood something they have said.

- **Don't understand or don't know**

Tell the witness that if they do not understand a question, they should tell you and you will rephrase it. You should also tell them that if they don't know the answer to a question it is ok to say they don't know, that you do not expect them to know everything but you still need to ask, just in case.

Investigative interviewing doctrine, Continued...

Account

Introduction

This section will identify and describe the steps involved in eliciting a complete, accurate and reliable account from an interviewee.

Interview models

The following interview models can be used within the PEACE framework to elicit an account:

- free recall
- cognitive interview (used by Level 3 adult witness interviewers)
- conversation management

Free recall model

The steps to obtaining an account when using in the free recall model are:

Step	Action
1	Set the scene and initiate a free report using an open TEDS question
2	Consider whether a sketch plan and/or another free report is required
3	Identify witness topics
4	Expand each witness topic by using open TEDS questions and if necessary, probing 5WH questions
5	Identify and expand investigatively important topics by using open TEDS questions and if necessary, probing 5WH questions
6	Summary and prepare written statement

Conversation management model

The steps to obtaining an account when using in the conversation management model are:

Step	Action
1	Initiate a free report using open TEDS question(s) and summarise back what was said
2	Identify suspect topics
3	Expand each suspect topic by: <ul style="list-style-type: none">• using probing 5WH questions• summarising and linking topics
4	Identify and expand investigatively important topics by: <ul style="list-style-type: none">• using probing 5WH questions• summarising and linking topics
5	Challenge any inconsistencies in an explanation seeking manner

Which interview model?

Generally speaking the free recall model should be used for witnesses and the conversation management model for suspects.

Obtaining an account from the interviewee

With experience, different techniques can be used to help the interviewee to provide a full account of events. For example, the conversation management model can also be used with difficult or unco-operative witnesses.

Many interviewees want to be helpful but you also need to be aware that sometimes witnesses and suspects have their own agenda.

Investigative interviewing doctrine, Continued...

The focus is on whether the witness or suspect is co-operative or uncooperative. It is important to note that interviewees can move from being cooperative to uncooperative and vice versa.

During the **planning and preparation** stage you will have considered how you will deal with possible changes in the interviewee's behaviour. You will also need to be fully alert during the interview, in order to detect such changes.

The interviewee should do the talking

With whatever interview model you use, your goal should be to get the interviewee to do most of the talking - they should be doing all the work because they were there and have the information you want.

Using open questions and active listening will help this to happen. Asking lots of questions should be avoided because it places heavy cognitive demands on you, disrupts the interviewee's thought process and gives less time for the interviewee to speak.

Asking lots of questions is often a sign of poor interviewing. Choose your questions carefully, use a minimum to elicit maximum information.

Investigative interviewing doctrine, Continued...

Account: using free recall model

Introduction

In the majority of situations, witnesses will be willing to co-operate with the police and the free recall model should be used. Free recall was developed in recognition that 'witness reports can be incomplete, partially constructed, unreliable and malleable' (Milne & Bull, 1999, p.34).

Put simply, free recall allows witnesses to give their account of what happened, in their own words and at their own pace, with no interruptions. You may also find it useful to get witnesses to make sketches of what they are trying to explain - like the layout of a room. Sketches also encourage the person to concentrate harder and assist their memory recall. Refer to the diagram overleaf of the Free Recall Model.

The goal of free recall is to get the witness to generate information rather than you extracting the information. Try to get as much information from the witness as possible using a minimum number of questions. They have the information you want, so they should be doing most of the talking.

Step 1: Set the scene and initiate a free report

Frequently an interviewee will be recalling an event that they experienced days, weeks, months, or even years previously. In addition, their ability to recall may be influenced by trauma. This can make it difficult to recall details accurately. Even so, if the interviewee is given time to concentrate, is willing to make the effort and is not interrupted, more details about the incident may be recalled.

One way you can help interviewees to recall is to mentally reinstate, as near as possible, the same conditions which existed when the information was encoded both physically (environment) and internally (how they feel). This is called 'setting the scene' or context reinstatement. Many people already use the technique of setting the scene when they can't find an important item such as a cellphone or wallet. You might think about or even physically go back to where you were when you last saw it, not just to search for the item but to help you remember where it was and what happened next.

Statements which set the scene

Setting the scene is the first step when conducting a Free Recall interview. You should help the interviewee remember by using verbal cues that guide their memory back to the time and place of the incident. The words 'think about', 'concentrate on' and 'focus on' are particularly effective. Once the witness has a point in time that they wish to start from, use the cues to set the scene.

Examples of verbal cues used to set the scene

'Think about where you were at the time'

'Think about what you were doing'

'Think about what was happening'

'Focus on everything you can see'

'Concentrate on who you were with'

'Think about what you could hear'

'Concentrate on what was said'

'Think about how you were feeling'

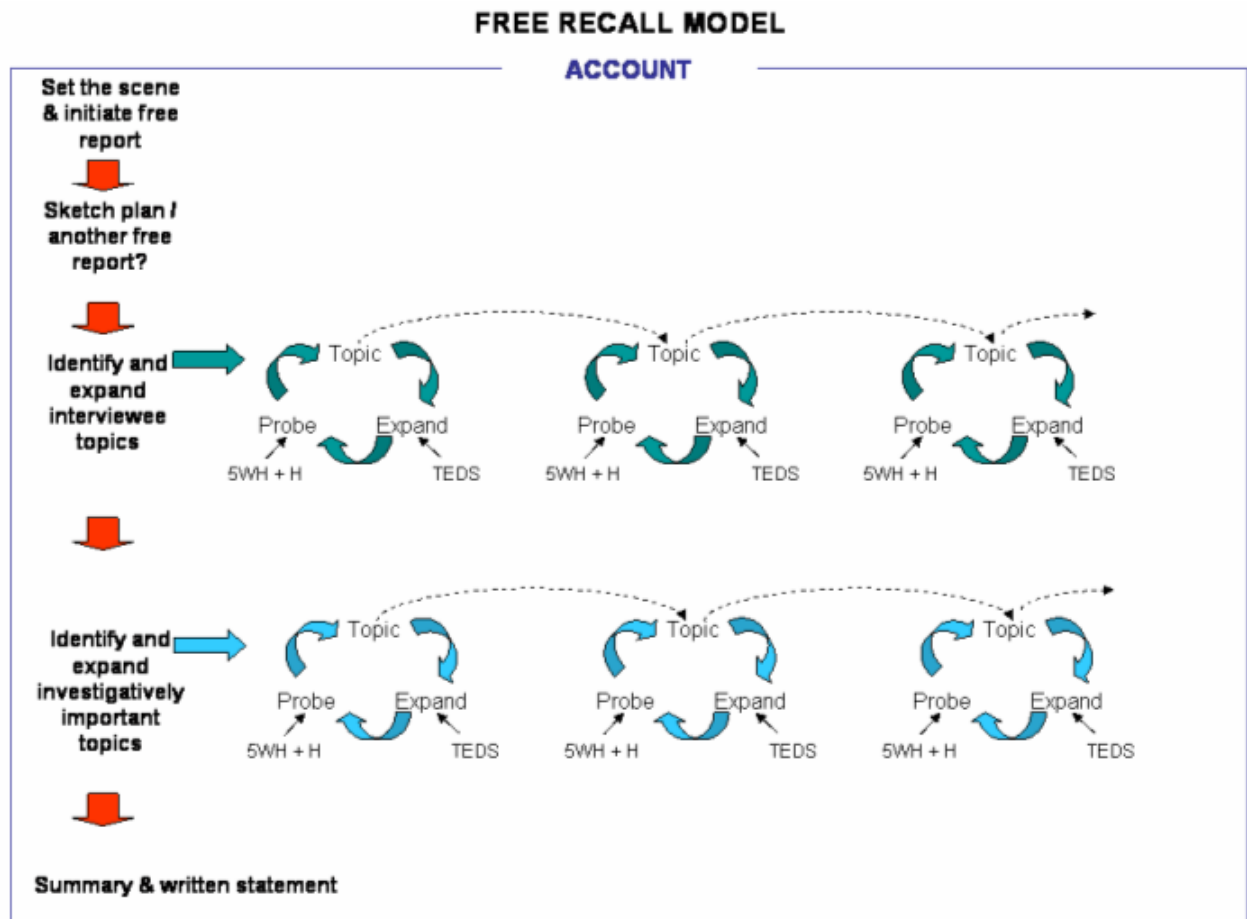
Make each statement in a slow and deliberate manner. In between each statement you should pause to allow time for the interviewee to think, concentrate and focus.

Remember at this point the interviewee needs to be silent as they work hard to recall information. The more time and effort you spend on setting the scene without actually leading the interviewee, the more information the interviewee will be able to give. These instructions are set out as instructions and not questions for a reason, be careful not to

Investigative interviewing doctrine, Continued...

turn them into questions as this would become a multiple question without hope of the witness being able to answer them.

Then ask the witness to tell you everything they know about... (the matter under investigation).



This process has the following advantages:

- you will get to know their version of events without leading, prompting or interrupting them
- the witness will have a chance to explain what they know
- you have the chance to show you value their contribution and acknowledge their efforts
- it passes control of the interview to the witness (the person with the information).

Initiate a free report

Use a TEDS style open question to initiate this uninterrupted account. For example, *'Please tell me everything you know...'* Remember, uninterrupted means just that – **do not interrupt!** The interview is about the witness - they are the one with the information; your job is to listen to what they can tell you and help them to remember more.

As the witness gives their account, use active listening and note topics that you wish to obtain further details about. This could include such details as clothing worn, the route travelled, or what happened at a particular place or time. Witnesses must be given sufficient time to provide their account. Use silence to allow them to recall and provide all the information they have.

Investigative interviewing doctrine, Continued...

Step 2: Sketch plan and/or another free report?

Consider getting the witness to draw a sketch plan

To help the witness to communicate with you and to recall events give them the opportunity to draw a plan or sketch of the area where the incident took place. Remember a picture speaks a thousand words. Any sketch or plan that is produced should be signed, dated and attached to the statement as it may later be produced as an exhibit. It will also assist the witness and members of the jury should the matter come to trial.

Appreciation – another free report?

Use your judgement to determine if you should attempt another free report. The more attempts that witnesses have at recall, the more detail they are likely to remember. It is impossible to remember everything at once. As an interviewer you need to ensure that you increase the amount of accurate 'freely recalled' information, and minimise the need for questions.

During the interview, encourage witnesses to search through their memory extensively. It is extremely unlikely that everything will be recalled initially. If you feel the witness has not provided enough detail, thank them for what they have told you and explain to them again that you think they may be able to remember a bit more. Be sensitive in the way you phrase this.

Step 3: Identify witness topics

The first uninterrupted account given by the witness is likely to be incomplete. Often a witness's account will need to cover a broad time span or range of events. It may be difficult for a witness to manage such a wide range of information all at once. Subsequent questions must be put systematically to ensure the witness has attempted to remember all he or she can.

It is a natural process of social interaction for people to give a 'reasonable' amount of information. If you were to ask someone to describe their car, you would not normally expect them to describe the design of the dashboard, seats, steering wheel, the contents of the glove compartment, the boot, the engine compartment etc. It is only when you enquire further and ask for descriptions of these elements that the interviewee feels able to expand and provide more and more detail. Breaking the account down into topics has a similar effect, focusing the witness on elements of the account and the details held within it.

By breaking down the account in this way you can:

- keep track of what has been covered
- understand new information introduced by the witness and fit it into the overall investigation.

Step 4: Expand witness topics

You can gain more detail from the account by systematically expanding each identified topic and asking for more details when necessary. To expand each topic you will need to use open and, if necessary, closed questions.

Open questions

Use open TEDS type questions to gain a free report of the topic you have identified.

Example: Expanding a topic using open TEDS type questions

Interviewer: *'Describe him in as much detail as you can.'*

Investigative interviewing doctrine, Continued...

Continue to use open questions to expand on the information given. For example: you may want the witness to describe in further detail the appearance of the offender's shoes. Keep asking open TEDS type questions until they are no longer fruitful.

Remember, accessing memory takes time and concentration. Be patient and use silence so witnesses have every opportunity to search their memory and provide a complete account.

Actively listen to what they tell you. Keep asking questions about each topic until you have all the information you need or the witness is unable to provide any more information. The witness should still be doing all the talking - you are just guiding them through this process.

Probing questions

You may need to use probing 5WH type questions to clarify ambiguities or cover investigatively important information that the witness will not provide with open questions.

Do not topic hop as this may interfere with the witness' recall. It is important that all questions relating to a particular image are asked before the interviewer asks the witness to activate and probe another image.

Step 5: Identify and expand investigatively important topics

When you made your initial interview plan you should have identified investigatively important topics you wish to cover with the witness, for example: ingredients to the offence and probable defences. Identify any topics that have not yet been covered and still need to be addressed (if there are any remaining).

Use the same process used in 'witness topics' to expand the witnesses' account. The need to cover ingredients should not dominate the interview by controlling the flow of information. Nor should it artificially constrain or distort the account of events given by a witness. Use open TEDS type questions where possible, and if required, probe with 5WH type questions.

Step 6: Summary and written statement

Once you have elicited a full account you should summarise the main points back to the witness to ensure you have understood what they said. If you were interviewing a witness, and the interview was not electronically recorded, you should now transpose the full account into a written statement with the assistance of your notes, memory and the witness. Remember the statement should be chronological but avoid other types of standardisation.

Upon completion of the statement the witness must be invited to read the statement to ensure it is correct, asked to make any alterations or additions they consider necessary and initial those changes as they are made. They should also initial the bottom of each page and sign the statement.

Through this process you will have systematically examined the witness's account and obtained all the information they can give. The next step is to assess the information obtained against the aim(s) of the interview and the interviewer's areas identified in your written plan.

Investigative interviewing doctrine, Continued...

Account: using conversation management model

Introduction

If you think an interviewee is likely to be unco-operative you will need to manage the account phase to a greater extent than with co-operative interviewees. This is especially true for suspects but may also apply to witnesses. The 'Conversation Management Model' will assist you to take greater control of the interview early in the interview process.

The conversation management model will:

- provide a structure so that you can plan the account phase of the interview
- manage the interviewee's behaviour from the start and keep them focused on the interview content
- encourage the interviewee to say what happened from their point of view
- get them to go beyond their pre-rehearsed script
- make them uncomfortable should they attempt to lie.

There are similarities in this approach to the Free Recall model. The skilled interviewer can move between both approaches when and where they perceive the need to do so. Refer to the diagram overleaf for a pictorial representation of the model.

All suspect interviews should be electronically recorded unless there are exceptional circumstances that prevent this from happening. If for any reason the suspect interview cannot be conducted electronically, you will need to record the statement contemporaneously as you go through the questions and answers.

Step 1: Initiate a free report

The first question you ask is of vital importance and may well set the tone for the rest of the interview. You need to ask an open question probing enough to demand a response. Initially your aim will be to obtain the suspect's version of events.

It may well be that your initial question brings little response in terms of an account which you can probe. You therefore may need to ask more than one question in order to obtain an account sufficient enough to probe.

In your planning and preparation you should consider what format your opening questions will take. As with an interview using the Free Recall model you should obtain the suspect's free report of events using an open TEDS type question.

Summarise

Using the suspect's words summarise what they have told you to check your understanding is accurate and if any topics have been missed.

Step 2: Identify suspect topics

While the suspect provides their account note down different topics that you want to expand.

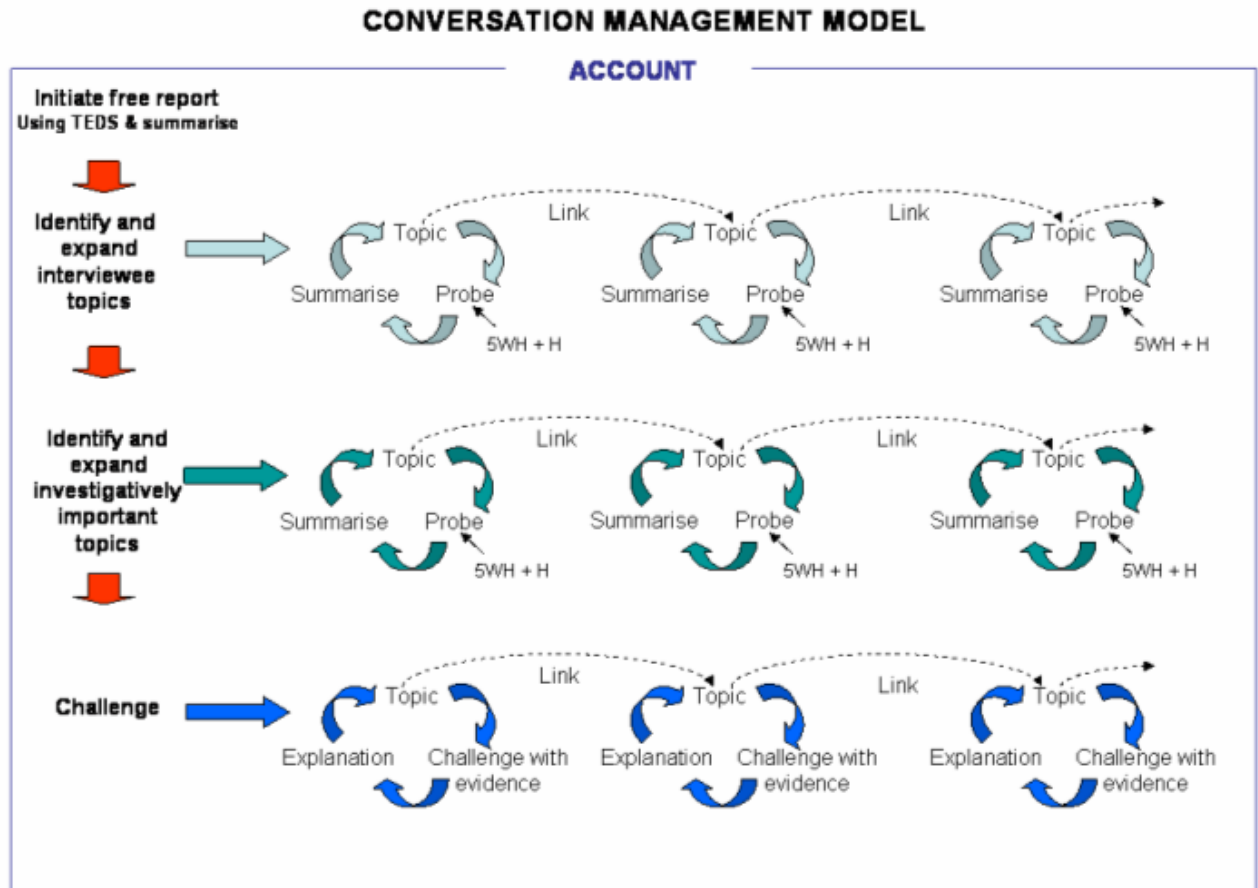
Step 3: Expand suspect topics

You can gain more detail from an account by systematically expanding each identified topic. It is your role to decide what order to introduce the topics and to define the parameters of each topic. To expand each topic you will need to ask probing 5WH questions, summarise and link to the next topic.

If the interviewee is deliberately lying, they are likely to fabricate further, thereby providing you with more information that may be disproved with further questioning or

Investigative interviewing doctrine, Continued...

investigation. It is very difficult to remember a large number of lies. By forcing the interviewee to tell lie upon lie you will also make it more difficult for them to remember what lies they have told you and that may later cause them to contradict themselves.



If the suspect refuses to answer, make a note of it and come back to the topic when covering your investigative important topics or during the challenge.

Summarise and link

Before moving on to the next topic you should summarise what has been said to check that your understanding is accurate. To maintain the conversational flow you should link the summary to the next topic with an open question.

Repeat this process until you have covered all suspect topics.

Step 4: Identify and expand investigatively important topics

When you made your initial interview plan you should have identified investigatively important topics you wish to cover with the suspect, for example: ingredients to the offence and probable defences. Identify any topics that have not yet been covered and still need to be addressed. Included are topics you have identified during your planning and preparation such as ingredients, defences and so on.

To expand on the interviewer areas you should go through the same process as with the suspect's account –using probing 5WH type questions. Summarise each topic to confirm that you understand their version of events.

Investigative interviewing doctrine, Continued...

Step 5: Challenge

The account needs to be challenged when you have good reason to believe a suspect is deliberately withholding relevant information, or knowingly giving a false account. If the suspect has made a full admission you may not need to challenge anything.

What a suspect says may be inconsistent with existing evidence from other sources or their own account before or during the interview. The existing evidence could have come from other interviewees or consist of physical or forensic trace evidence. Inconsistency with other evidence does not, of course, necessarily mean that the suspect is lying or even mistaken. But such inconsistency will need exploration, either immediately or in the future.

It is important to bear in mind that challenge refers to the task of exploring the reasons for any evasiveness or inconsistencies with the suspect.

In this stage you should:

- put apparent lies to the suspect to test or check the details, to ensure the suspect is not mistaken; and
- where there is evidence to prove the suspect is lying, present this in a positive and confident manner.

The process of challenge

You should maintain a positive and professional approach when challenging the suspect. Remember, a jury may later watch your interview and they expect you to be professional, firm and fair. There are three aspects you should consider when challenging a suspect's account:

- the timing of your challenge
- adopting a clarification seeking approach
- asking for an explanation of the discrepancies.

Use an open ended question to introduce each challenge and seek an account of it from the suspect by:

- stating what the suspect has said that is disputed e.g. *'You said...'*
- explaining what the contrary evidence is e.g. *'we have...'*
- asking the suspect to provide an explanation for inconsistencies between what they have said and the evidence e.g. *'explain that...'*

E.g. *'You said you have never been to 12 Parrot Street. We have located your fingerprints on the window sill at 12 Parrot Street. Explain that.'*

The timing of your challenge

Good practice suggests that such challenges should take place towards the latter part of the account stage, prior to the closure. For example, you would normally not challenge a suspect whilst they are actually giving their account as this would discourage them from continuing to give their explanation.

Adopting a clarification-seeking approach

You should explain to the suspect that you wish to explore certain areas or points again. It is important that you present your continued questioning as a form of problem solving to which the suspect can contribute. That way, the suspect is not put on the defensive if they do have explanations for the inconsistencies and are telling the truth.

Asking for an explanation of the discrepancies

You must ensure that any discrepancies requiring an explanation or gaps in evidence are clearly put to the suspect. To begin with you should ask the suspect for suggestions as

Investigative interviewing doctrine, Continued...

to how the discrepancies between their account and the evidence you have gathered have occurred.

Go through each piece of evidence one at a time and ask for their explanation. Make sure that what you say is a correct and fair representation of what they said. If they are not telling the truth they may realise that the evidence is overwhelming and admit to the truth.

Example of challenging a suspect's account

Interviewer: *'You told me that you have never been to 'Tools Are Us' in Avalon. We have found your fingerprints in the store, explain that'*

Suspect response.

Next interviewer challenge...

In the case of evasiveness, ask if there is anything they can add to what they have said, as there are still some questions you need to have answered. Reiterate the purpose of your enquiries and **indicate the openness of your search for the truth**. Explain that you will be continuing your enquiries until satisfied that you have an accurate and reliable understanding of what has happened.

The use of silence at this stage may encourage the suspect to provide an explanation.

When challenging the suspect on inconsistencies between their account and a witnesses', avoid reading out aloud long passages from the witnesses' statement. The witness may later not come up to brief on this issue. It is preferable to put an accurate summary of the allegation to the suspect and seek a response (refer to Guideline 4 of the Practice Note).

Initially do not try to give an explanation of why the discrepancies have occurred (e.g. *'You are not being honest'*). Remember to give plenty of time for the suspect to respond to your query. Eventually you may need to state openly that you think the suspect is not telling the truth. As long as you have a good reason for saying it, this comment in itself is not oppressive. Remember you cannot normally call the suspect a liar this is your opinion and can prejudice the jury. It may lead to part or your entire interview becoming inadmissible.

Use the conversational techniques discussed earlier (personalising by using their preferred name, asking open questions, listening actively, expecting the suspect's contribution and summarising their explanations) before going onto the next area of challenge.

The 'No comment' response

Operationally, there will be occasions when suspects, whether on legal advice or not, will respond to questions by stating 'No comment'. The well prepared interviewer should not be put off by this response.

You should be prepared to ask a limited number of questions supported by the evidence the investigation has accumulated. Ask a maximum of five questions allowing the suspect time to respond to each one.

Investigative interviewing doctrine, Continued...

Closure

Introduction

This section will examine how to close the interview and prepare the interviewee for future events.

How should the interview be closed?

Once all the required information is canvassed from the interviewee, investigators should:

- address any concerns
- prepare the interviewee for future events

Information about future events

When concluding an interview, if relevant, investigators should provide the interviewee with information on:

- any further evidential requests - photographs, medical examination, voluntary fingerprints or DNA sample
- the investigation process
- the prosecution/court process

Purpose of closure

The interview should be brought to a close when you have properly concluded that no purpose will be served by continuing. It is important to plan the termination or **Closure** of an interview. This should be done in a courteous and professional manner. When the interview is clearly drawing to its close, your aim should be to:

- verify that information has been sufficiently covered
- ensure that there is mutual understanding about what has taken place
- prepare for future ground
- close the interview positively to encourage the interviewee to provide accurate and reliable information in the future.

In this section we will consider how this is achieved.

Verification

The answers to four key questions must be considered before Closure of the interview:

- Have you covered all the questions you want to ask?
- Has the interviewee provided all the information they are able and willing to provide?
- Have you covered all the aims of your interview?
- What is the effect of additional information provided by the interviewee and does this warrant further questioning?

These questions are most easily answered by reviewing the topics that were covered during the interview and the information obtained.

Dealing with new information: opening a new account phase

Do not hesitate to raise additional issues that occur to you during your closure and be on the look out for signs that the interviewee might have more to say. A suspect may indicate willingness, verbally or non-verbally, to answer questions about topics on which they had previously remained silent. A witness may suggest that they have relevant information that has not yet been discussed. Be prepared for these eventualities.

You may respond by re-entering the Account phase immediately or if a break is required adjourning the interview and in effect starting the Account phase afresh.

Investigative interviewing doctrine, Continued...

Consider again the PEACE framework. Closure provides the opportunity to re-enter **Engage** and **Explain** or the **Account** stage. This allows you to explore any new information in a systematic manner.

Mutual understanding - questions from the interviewee

You should ask the interviewee if they have any questions. An interviewee may well want to clarify whether they will be required to attend court and what this entails. They may have worries and concerns about their personal safety or some other query. A willingness to listen at this point may well prove fruitful; not only in obtaining new information but also in their attitude towards you and other investigators in the future.

If they do ask questions, give honest answers. If you do not know the answer, say so. Do not discuss bail or sentencing. Point out that this is a matter for your supervisor or Watch-house Senior Sergeant and the courts.

Thank the interviewee for their time.

Preparing for future ground

Preparing for the future will differ depending on whether the interviewee is a witness or suspect.

Information to witnesses

Ensure that abrupt endings are avoided by ensuring adequate time is set aside to close the interview properly and explain the next stages of the process. Remember that most witnesses will not have been through this experience before and will therefore, in appropriate cases, appreciate information regarding:

- the investigative and court process
- Victim Support
- claims for reparation
- crime prevention issues.

It is important to tell the witness that the case should not be discussed with other witnesses who may have different perceptions of the same incident; as doing so could confuse them, contaminate their memory and devalue their efforts.

Witnesses may need the support of friends, relatives and in some circumstances, professional counselling. Spending time with witnesses after an interview reinforces the trust which was developed earlier and can pay dividends. This developing relationship will hopefully encourage interviewees to report information that they might recall later. They might also be keener to come forward to help police with other matters in the future.

You should explain to witnesses that they may be likely to remember more information about the incident in the future. They should be asked to make a written note of any additional recall. It is very important that you leave them with a method of getting new information to you. In appropriate cases you should also explain that you will contact them in a few days, to see if they have remembered anything else and to inform them of any developments.

The potential to become a police informant/confidential source also applies to witnesses.

Information to suspects

There are formal aspects to the Closure of suspect interviews which must then be complied with.

Investigative interviewing doctrine, Continued...

Practice Note Guideline 5 requires you to give the suspect the opportunity to review the interview.

With an electronically recorded interview police procedures also require you to:

- give the time that the interview finishes
- seal the master tape in the presence of the suspect.

Once you have closed the interview you should continue to adopt an approachable and professional style.

Ensure that the suspect understands what is going to happen next.

Offer refreshments when appropriate and ensure that they are provided. Remember this may be one of a series of interviews. You should continue to maintain a working relationship with the suspect throughout. They should be left feeling that they have been dealt with fairly and in an approachable professional manner. Remember, there is always the potential for a suspect to become an informant. How you deal with the suspect may affect the chances of this happening and the quality of information given at a later date.

Final closure

Always close the interview with the '**three P's**':

- **Polite:** end the interview politely, thanking the interviewee for their time and efforts with assisting with the investigation. Thank the suspect for speaking to you.
- **Positive:** end the interview positively, for example 'The information you provided is in such detail it will certainly assist with the investigation, thank you.'
- **Prospective:** ending the interview politely and positively will help prepare for future contact. You want the witness or suspect to contact you if they recall details to add to the information provided.

Remember that no matter the type of interviewee, there may be an occasion in the future when you or a colleague will need their co-operation to conduct effective and professional investigations which may result in the saving of lives.

Always provide the interviewee with your name and contact details so they can get hold of you if required.

Investigative interviewing doctrine, Continued...

Evaluation

Introduction

Evaluation concludes the PEACE procedure. You need to evaluate from the interview:

- the information that has been obtained and how this relates to the investigation
- your performance as the interviewer.

Summary

Evaluate the information obtained in the context of the investigation

Once the interview is complete the interviewer should evaluate how the information obtained impacts on the investigation. You should:

- identify what evidence there is in relation to the offences, ingredients and potential defences
- identify investigatively important descriptions of people and objects
- establish what enquiries need to be conducted and determine urgency.

Evaluate the interviewer's performance

The investigator should conduct a mental appreciation of their own performance at interview.

Covered in the performance evaluation should be:

- what was done well
- what could have been done better
- what areas can be developed
- how these skills can be acquired

Evaluate the information obtained

Evaluate the information provided during the interview and ask yourself the following question:

'What effect has this new information had on the investigation as a whole?'

The evaluation should be completed as soon as practical after the interview, while the information is still fresh in the interviewer's mind.

To answer this question you should:

- process the information from the interview in the context of the investigation
- identify what evidence there is in relation to offences, ingredients and potential defences
- identify important descriptions of people and objects that may be vital to the investigation
- establish what further enquires need to be conducted and determine urgency.

When evaluating the interview you must consider what evidence there is in relation to offences, ingredients and potential defences, and determine what enquiries need to be made.

Often this can be accomplished by posing a series of questions and evaluating the answers. With each piece of information consider 'So what?'

Objectives

Consider first your interview plan and your initial objectives:

- Were these revised during the interview? If so, why?
- Have you achieved your (possibly revised) objectives?
- Have you covered the points needed to prove the offence(s) in question?

Investigative interviewing doctrine, Continued...

New information

Similarly, you should consider:

- What new information do you now have?
- Is it consistent with evidence already obtained?
- Are there any conflicts to be resolved?
- What further enquiries do you need to make?

The above questions will assist you to assess what impact the interview has had on the investigation and what action you need to take next. Consider how your investigation has changed as a result of this interview. For example the person suspected of assault may now appear to have been acting in self-defence.

The interview may have given you new lines of enquiry to follow, such as the involvement of another person not previously known about. Maybe it has merely confirmed and strengthened your previous view of the investigation. Be precise about what evidence you actually have to support your understanding of this incident and identify where you are merely putting forward an opinion. Seek evidence to corroborate what was said.

Witnesses

If the matter will proceed to prosecution, consider whether a mode of evidence application will need to be made for the witness under section 105 of the Evidence Act 2006. Make sure you note this down in your report to the prosecutor.

Suspects

In the case of interviews with suspects you should also ask the following questions:

- Should the suspect now be eliminated from your enquiry?
- What evidence do you have to support the allegation that the suspect committed the crime?
- Is there sufficient evidence to charge them with an offence?

You will have to answer these questions carefully. You should make a full note of the reasons for your conclusions and what further action needs to be taken. An 'Interview Evaluation Form' must be completed for all electronically recorded interviews.

Evaluate your performance

To improve your interviewing skills you need to learn from experience. This means that in addition to evaluating the evidence you must also evaluate your own performance:

- What did you do well?
- What could you have done better?
- What areas can you develop?
- How do you acquire these skills?

Evaluate the whole PEACE process. Look back at your Planning and Preparation. Establish where your interviewing can be improved. Evaluate your performance and set goals to improve it where necessary. The more interviews you conduct the more proficient you should become. If you are working with a colleague, feedback should be sought and given on each other's interviewing.

The NZ Police have a formal evaluation and supervision process where trained supervisors and assessors examine interviews, give feedback and advise on how to develop interview skills.

The important point in evaluating performance is the setting of appropriate aims and objectives whether by yourself or with a supervisor. This is a way to develop your skills as a professional investigative interviewer.