

Instructor's Manual with Test Item File

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Smart Talk

Contemporary Interviewing and Interrogation

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Upper Saddle River, New Jersey 07458

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Preface

Smart Talk: Contemporary Interviewing and Interrogation presents a multidisciplinary approach to the gathering of verbal evidence. It incorporates concepts from communications theory, sociology, and psychology in addition to the legal perspective of criminal justice. The text is appropriate as a stand-alone book for criminal justice or sociology courses on interviewing and interrogation or for criminal-justice communications. A secondary use would be as an accompaniment to numerous courses in either criminal justice or sociology.

The course has been student tested at Western New England College and Baypath College, Springfield, Massachusetts. My course version is cross-referenced as an elective for either criminal justice or sociology credit at the undergraduate level. Majors from criminal justice, psychology, and sociology have enrolled in equal numbers.

Throughout the text are “Been There . . . Done That!” categories involving real situations that are included to illustrate the interviewing and interrogation concepts outlined in that chapter. These can be useful for the instructor who is seeking to encourage conversation about the topics. The chapters that focus on legal precedent also include “Case in Point” sections. Each of these sections provides a brief description of a Supreme Court landmark case that guides interrogation practice.

The text has been broken into four parts. Each part contains three or four chapters that are grouped together under a major theme. This Instructor’s Manual follows that same format. Major sections from the text that are included consist of a general overview of the chapter, key terms, and all questions (along with answers). Instructor tips, exercises, resources, and questions that are not in the text are also provided. Additional student exercises in this Instructor’s Manual that are not included in the textbook are located at the beginning of each section. Additional web sites and instructional video resources are provided, along with true/false and multiple-choice questions with answers. PowerPoint slides and test-bank questions to accompany the text are available through the online Web site associated with *Smart Talk*.

Sample Syllabus



CRIMINAL JUSTICE PROGRAM
1215 Wilbraham Road
Springfield, MA 01119

Course Title: Interviewing and Interrogation CJ 313-01 / SO 313-01
Class Meetings: August 30, 2007 through December 8, 2007
Time: 1400 to 1520 hrs. — Emerson 209
Instructor: Denise Kindschi Gosselin, Professional Educator

Office Location: Emerson 111-C

Phone: 413-782-1555

Office Hours: Tuesday and Thursday at 0855 to 1055 and 1325 to 1355

Campus Mail Box — 5188

Online — send an email any time to talk or set up an appointment!

dgosseli@wneec.edu

Prerequisite: PSY 101, SO 101, CJ 101 plus any 200-level CJ course, 3-credit course

Course Description: This course will focus on the art of inquiry and persuasion. Its aim is to compliment standard techniques of communication while offering options for eliciting information. Interviewing procedures for obtaining statements from children and difficult adult populations will be explored. Emphasis is on investigative methodologies consistent with federal and state constitutional principles.

Required Text: Gosselin, Denise (2007). *Smart Talk: Contemporary Interviewing and Interrogation*. Upper Saddle River, NJ: Prentice Hall. Other required readings may be assigned by the instructor.

Course Objectives: The objectives are twofold: to familiarize each student with the laws governing interrogation of a suspect and to explore methods of interviewing. The Due Process rights of defendants, including Miranda concerns, will be fully discussed with the goal of teaching each student the limitations on police authority, while at the same time acknowledging the need to garner facts.

Course Requirements:

➡ Interviewing exercises will be due on the dates specified in Manhattan. This grade shall count for 20 percent of the student's final grade.

➡ **Quizzes and Final Exam.** There will be four quizzes and a final exam. These quizzes will contain multiple-choice, fill-in, and essay questions. Quizzes are mandatory and will be given on the dates scheduled. Makeup will be arranged only in cases of medical necessity or emergencies. **These grades shall be averaged and count for 50 percent of the student's final grade.**

➡ **Research Paper Option #1:** Each student shall submit a research paper based on an area of interviewing or interrogation. The paper shall be a minimum of 10 pages (typed and double spaced, 12 pt. font, 1-inch margins) and shall be submitted no later than **November 29, 2007**. At least three independent sources (texts and articles—not including the class textbook) and one Web site shall be cited as reference material for this research paper. APA formatting is required for all citations.

➡ **Research Paper Option #2:** Each student shall submit two short research papers based on an area of interviewing or interrogation. Each paper shall be a minimum of 5 pages (typed and double spaced, 12 pt. font, 1-inch margins) and shall be submitted no later than **October 18 and December 2, 2007**. At least two independent sources (texts and articles—not including the class textbook) and one Web site shall be cited as reference material for these research papers. APA formatting is required for all citations.

The grade received on the research paper(s) shall total 30 percent of the student's final grade.

Attendance Policy: Attendance is mandatory for all scheduled classes. More than **three** missed classes are considered **excessive** and will result in a lowered grade. Two points will be deducted from the final grade average for each excessive missed class (not to exceed 10 points). Students will be held responsible for any class changes, all assignments, and lecture material. In case of illness or serious accident, the student should communicate with the instructor as soon as possible.

We cannot anticipate any and all problems to be encountered. The instructor reserves the right to institute changes for the good of the class and the student as she sees necessary. Changes will be announced in class and via email.

Assignment Due Dates: The instructor must receive all assignments on the date on which they are due, unless a student has been given an extension on an assignment

Integrity of Scholarship: All work submitted for credit is expected to be the student's own original thought. If ideas, thoughts, published or unpublished resources, language, and like materials are used, appropriate credit must be given. Students should consult the Student Conduct Code for additional information

Method of Instruction: Each student is expected to read the assignments and be prepared for class discussions. This is an interactive course that requires student participation. Lectures through PowerPoint and multimedia presentations will compliment the reading assignments.

Students with a Disability who are requesting academic accommodations should contact the SDS office in Deliso GO5 or call 782-1257 for an appointment.

Absence Due to Religious Belief: Any student who is unable, because of religious beliefs, to attend class or to participate in any examination, study, or work requirement, shall be excused from any such examination, study, or work requirement, and shall be provided with an opportunity to make up what he or she may have missed because of such absence on any particular day provided, however, that such make-up examination or work shall not create an unreasonable burden upon the school.

Faculty Evaluations: Faculty evaluations will be completed in class at the end of each semester.

In order to project and prepare us, as much as possible, I will adhere to the following dates for assignments:

Examination Dates:

- ✗ September 15, 2007: 1st Quiz, Chapters 1–3
- ✗ October 6, 2007: 2nd Quiz, Chapters 4–6
- ✗ November 3, 2007: 3rd Quiz, Chapters 7–9
- ✗ December 1, 2007 4th Quiz, Chapters 10–13
- ✗ Final Exam Week: Comprehensive Exam

Term Papers Due: Option #1 is a 10-page research paper due on November 29, 2007. Option #2 is two small research papers due on October 18 and December 2, 2007.

Grading Criteria:

94+ = A 90–93 = A- 87–89 = B+ 83–86 = B 80–82 = B- 77–79 = C+
73–76 = C 70–72 = C- 67–69 = D+ 63–66 = D 62 and below = F

Class Outline

Weeks 1 to 3 Part I: Laying the Groundwork for Success

- ✱ Chapter 1 — Interviewing and Interrogation
- ✱ Chapter 2 — The Interview Process
- ✱ Chapter 3 — Purposeful Interviewing and Processes

Weeks 4 to 6 Part II: Methods and Techniques

- ✱ Chapter 4 — Traditional, Structural, and Inferential Interviewing with Statement Analysis Techniques
- ✱ Chapter 5 — Forensic Hypnosis and Cognitive Interviewing
- ✱ Chapter 6 — Behavioral Interviewing Techniques

Weeks 7 to 9 Part III: Interviewing Special Populations

- ✱ Chapter 7 — Interviewing Children
- ✱ Chapter 8 — Interviewing the Elderly
- ✱ Chapter 9 — Interviewing Persons with Disabilities or Mental Illness

Week 10 to 13 Part IV: Interrogation

- ✱ Chapter 10 — The Interrogation Process and the Law
- ✱ Chapter 11 — Confessions
- ✱ Chapter 12 — Techniques for Interrogation
- ✱ Chapter 13 — Juvenile Rights and Police Responsibilities

Part I: Laying the Groundwork for Success

Instructor Tips

For a class that meets twice a week, you may choose to lecture with the PowerPoint presentations on one day and plan on class participation through an interviewing exercise or movie on the second class day. PowerPoints for each chapter are included as part of the instructional materials.

You will note that the book is grouped into three parts or sections. Another suggested teaching method is to cover the chapters in class and to follow this up with practical exercises that will reinforce the material at the end of the section.

At the end of each chapter, the student has been provided with exercises designed to reinforce the chapter concepts. These exercises are provided as additional ways to engage the students in the learning process. They may be adapted for use in class or as out-of-class assignments. You will find that these exercises provide both discussion material and practical applications for the concepts being discussed.

Additional Exercises for Chapters 1–3

1. **Conducting Effective Interviews**

Introduction: Many people believe that interviewing is something natural. Either you are able to do it or you're not. Typically that position is based on fears of failing. By recognizing the obstacles that are associated with interviewing, students can overcome the reluctance to learn the techniques for conducting interviews.

Assignment: Read and discuss the following scenario:

Richard had recently been assigned as a detective for the Chicago Police Department. It was a fast paced unit, and there was no time to settle in! On the first day he was sent out to interview a professor who reported that his car was stolen. Richard had an immediate dislike for the victim and knew that the feeling was mutual. The interview went poorly. Richard left thinking that the victim was an arrogant and conceited person who deserved what had happened to him. Richard continued to have difficulty. Talking with people did not come naturally to him. Eventually he told one of the other detectives that he was not "cut out" for detective work and asked to be reassigned.

Do you agree that successful interviewing requires a natural ability to talk with people? Is there anything that Richard could have done differently in that first interview? What would you do if you were in Richard's position?

In the scenario you just read, Richard felt that investigative work required a natural ability. This is a common misconception. Interviewing and interrogation are skills that are based on basic communication processes that can be learned. Communication affects our daily interaction with others.

Assignment: Write down one issue you feel may make it difficult to conduct an effective interview. The responses, which will be collected by your instructor and read aloud, will be anonymous.

As the challenge is read aloud, answer the following question:

- How would you overcome that challenge?

2. **Establishing Rapport through Kinesics**

Introduction: The ability to establish rapport is a willingness to use words and behaviors to effectively impart information, with openness toward receiving information back from another person. The personal qualities of the interviewer can reduce the effectiveness of an interview and interfere with the establishment of rapport. Rapport can be established through kinesics, which are non-verbal or behavioral techniques of communication.

Assignment: Talk for about 5 minutes and deliberately mismatch the person through body language. For example, sit differently, breathe differently, and use different gestures. Notice your friend's level of comfort or discomfort.

Next, match his or her body language as the two of you are talking. Show approval, agreement, acceptance, and continuing attention through your facial expressions. Do you see any difference in your friend's level of comfort or discomfort?

After completing this activity, post your response to the following discussion questions on the discussion forum: What non-verbal techniques did you use to establish rapport? Which of the two techniques were successful in putting your friend at ease: matching or mismatching?

Also respond to the posts of at least two other students. In your response, focus on the following questions: Could anything have been done to improve the rapport? What would you suggest?

3. **Establishing Rapport through Paralanguage**

Introduction: Words are one of the ways that people communicate. The person's tone, pitch, and reflection express emotions that add meaning to the words being spoken.

Assignment: Assign pairs of students to sit with their backs to each other. One says a sentence, and the other tries to duplicate it exactly using the same pitch, tempo, tonality, and rhythm until the first person judges it to be the same. Repeat until you can comfortably do it.

4. **The Interview Process**

Introduction: The interview process is made up of various parts that are interdependent on each other. Each part influences the entire process, some more than others.

Assignment: Which part of the interview process in your opinion is the most important and why? Compare your opinions with those of other students in class, and discuss why you agree or disagree with their point of view.

5. **Misinformation and Contamination**

Introduction: When a person's memory of an event is changed due to the introduction of misinformation, it is referred to as contamination.

Assignment: Write in your own words what misinformation and contamination mean to you. Specify some examples of contamination. In what way can this be a problem for the interviewer?

Additional Instructor Resources

1. **Face Value.** Produced by Canadian Broadcasting Corporation. A documentary film on facial kinetics. 38 min. video: sale, \$295; rental, \$55. The film is available at the following site: <http://www.filmakers.com/ORDER.html>.

2. **Non-verbal Communication.** This Web site gives you the chance to learn more about non-verbal communication through numerous videos that can be purchased. You can even test your own ability to “read” samples of real non-verbal communication. Each video is about 30 minutes in length and comes with a detailed instructor’s guide. These University of California videotapes are produced by Dane Archer, a Professor at the University of California at Santa Cruz. See <http://nonverbal.ucsc.edu/>.

3. **The National Criminal Justice Association** containing numerous links to criminal-justice materials is located at http://www.ncja.org/web_resources.html.

Chapter 1: Interviewing and Interrogation

Chapter Overview

The focus of this chapter is to introduce the reader to the concept of communication and its role in interrogation and interviewing. This is achieved by first explaining the context in which *Smart Talk* approaches communication. Berlo's communication process is discussed, and his ideas are then threaded throughout the chapter.

Both interrogation and interviewing are the basis of this chapter. The student is introduced to the differences between interrogation and interviewing and what qualities is takes to be successful at both. Furthermore, students are versed in the different types of non-verbal communication that can arise during an interview or interrogation. The establishment of rapport through non-verbal behaviors, including kinesics, proxemics, and paralanguage, is presented.

Instructor Notes

1. Interviewing

The last decades of the nineteenth century witnessed the birth of an era known as police professionalism. Among the goals in the reform movement was an expectation that officers interact with citizens in a neutral and detached manner.

Improved police-citizen communication again became a major focus in the 1970s with the introduction of community policing. The advance toward police professionalism still centers on the officers' ability to communicate effectively with the public.

Interviewing is the primary form of professional communication within the field of criminal justice. The purpose of interviewing is to gather information. There are many different approaches to fact-gathering that you will encounter throughout this course. The *characteristics of an interview* differentiate it from an interrogation.

You will note that the primary emphasis of the course is on interviewing. The importance of interviewing for criminal-justice professionals cannot be understated; *approximately 80 percent of police work consists of interviewing.*

Interviewing: Interviewing is the practice of fact-finding that produces information that can lead to conclusions about an event or incident.

Characteristics of an interview: The approach is non-accusatory, it should be conducted early in the investigation, the environment should be relaxed, and the dialogue should be free flowing.

2. Categories of Persons to Be Interviewed

There are three categories of persons that may be interviewed:

- A *victim* is the person who is the object of an incident, crime, or other harm.
- A *witness* is someone who personally sees, hears, or otherwise observes something related to the incident under investigation.
- A *suspect* is the person that the police officer has reasonable cause to believe committed a specific crime.

Assessment of interviewee credibility is essential to evaluating the usefulness of the statement.

Victim credibility: These interviews may be influenced by prejudice, anger, pain, and fear in addition to age, gender, cognitive abilities, and fear of disclosure.

Witness credibility: Eyewitness evidence is notoriously inaccurate, incomplete, and unreliable without independent corroboration.

Suspect credibility: Suspect interviews are routinely conducted. In addition to sharing the same influences as the victim, a suspect has consequences to fear.

3. **Interrogation**

Interrogation is the second form of communication practiced by criminal-justice professionals. Compared to interviewing, it is the most talked about but least understood process. Interrogation tactics used by police officers continue to be closely scrutinized and criticized by the courts and the public. Strict legal guidelines on conducting interrogations have been established by the Supreme Court; these will be studied later in the course.

For now, the basics of interrogation are presented. The purpose of interrogation is to encourage the suspect to provide evidence of his or her guilt or involvement in a crime. It is not necessarily to force a confession. It involves the development of rapport, playing on the source's character, in order to induce the suspect to disclose information to the interrogator.

Interrogation: An interrogation is an exercise in persuasion with the goal of eliciting a truthful confession.

4. **Difference between Interviewing and Interrogation**

Television depictions of interrogations are overly dramatized and rarely accurate. They cannot be used to form an opinion on how to conduct a professional interrogation. Where would you start in understanding the interrogation process? It makes sense to start with the *similarities* between the interview and interrogation, which are far more than the differences. Some consider an interrogation a methodology used within an interview.

Next, consider the *differences* between the interview and interrogation. Since it is not in the best interest of the suspect to give information that may be used against him or her, persuasion is generally used as the interrogator attempts to obtain a confession or admission from the suspect.

Similarities: Both an interview and an interrogation require the establishment of rapport, attempt to gather information, can be conducted in a variety of environments, and may involve persons that do not want to give factual information to the police.

Differences: The interview is not accusatory, unlike the *interrogation*, which is accusatory.

Additionally, the interrogation process is guided by legal standards to safeguard the rights of the suspect.

5. **Personal Qualities of the Interviewer**

When a person goes through an action in order to achieve a particular result, it is referred to as a process. An interviewer has typically gone through a process that will maximize the chances of being successful at obtaining information.

Examples of the personal qualities that are desirable to maximize communication during an interview include putting aside personal prejudices and biases; developing a genuine curiosity

about people and events; having a positive attitude; being willing to develop rapport; becoming knowledgeable about the profession; and acting in a professional manner.

6. **Communication for Rapport**

Whenever two people are communicating successfully there is an air of comfort in the exchange. This is referred to as *rapport*. It can occur naturally when the people know each and have a previous relationship that is positive.

The establishment of rapport is an important tool for the criminal-justice professional. When rapport is established within the interview context, the interviewee is more likely to provide information. Rapport can be purposefully established through verbal or non-verbal techniques. These should be used prior to each interviewing attempt. It may also be helpful when seeking an admission or confession.

Rapport: The communication that results when two people agree on the means and willingness to communicate.

Short-Answer Questions

1. How would you define a successful interviewer using the approach described in this chapter?

The successful interviewer will have knowledge about both themselves and others. While most definitions of interviewing and communication might focus on speaking aspects, *Smart Talk* focuses on thinking and listening skills as the first step to communication.

2. What is Berlo's model of communication?

Berlo's communication model features the source, message, channel, and receiver. The relationship between the source (the communicator) and the receiver (the one who receives and interprets the meanings) is stressed in this method of communication. Messages are coded and given meaning through seeing, hearing, touching, feeling, and tasting (our five senses). The transmission of the message is based on the communication skills, knowledge level, socio-cultural system, and attitudes of the source and receiver.

3. Describe the qualities that make a good interviewer.

The best interviewers are insightful and have a genuine curiosity about people. They are able to develop rapport without losing objectivity. The knowledgeable investigator asks a lot of questions and does not assume anything. He or she knows that the answer must be learned from the circumstances. Furthermore, professionalism is always important when obtaining information without bias. The professional investigator knows that the attitude he or she conveys directly relates to witness cooperation.

4. What are the definition and purpose of an *interrogation*?

An *interrogation* is an exercise in persuasion with the goal of eliciting a truthful confession. The nature of an interrogation can be accusatory and, thereby, unpleasant. At its best it is respectful of human dignity.

5. Define *interview*, and describe how it differs from *interrogation*.

An *interview* is an information-gathering exercise that can be conducted with victims, witnesses, and potential suspects. It is done early on in an investigation with a non-accusatory approach. There must be structure to the interview in order to obtain pertinent information. The interview is different from an *interrogation* in nature and style. While interviews occur at the beginning of the investigative process, interrogation happens near the end. Interviews are done to gain information, not elicit a confession, which is the goal of interrogations. Interrogations can be unpleasant and stress-inducing, and interviews are more relaxed and less accusatory.

6. What categories of individuals may be interviewed?

The categories of individuals who may be interviewed include victims, witnesses, and suspects.

7. What are some of the different types of non-verbal communication discussed in the textbook?

Body language: Posture communicates emotion. Sitting upward denotes rising energy, while a drooping body signifies low energy.

Proxemics: Violation of personal space can cause a person to feel tension. An ideal setup entails people sitting corner-to-corner. This allows for better observation of visual cues and eye contact.

Paralanguage: The vocal part of speech and its nuances (e.g., tone, pitch, and reflection). It reminds us that it's not just important to note *what* the person says, but also *how* the person says it. Active emotions (e.g., fear and anger) are expressed at a fast rate with high pitch and tone, while passive emotions are conveyed by a slower rate of speech and a lower volume and pitch.

Fill-In Questions

1. _____ is the process of eliciting a confession from a suspect.

(Interrogation)

2. _____ is the process of gathering information. (Interviewing)

3. The three categories of interviewees are _____, _____, and _____. (victims; witnesses; suspects)

4. Successful interviewers are _____ and _____ in order to obtain as much pertinent information possible. (knowledgeable; professional)

5. _____ is the communication that results when two people agree on the means and willingness to communicate. (Rapport)

6. _____ communication often conveys a larger share of social information, approximately 65 percent or more. (Non-verbal)

7. The study of our use of space and how various differences in that space make us feel more relaxed or more anxious is called _____. (proxemics)

8. The vocal part of speech and its nuances is referred to as _____. (paralanguage)

Exercises

1. Kinesics is an approach that has only recently been adapted for criminal-justice interviewing. Go online and discover additional ways in which kinesics is used.
2. *Class assignment:* Test the principles of proxemics. Find someone on campus in the library or lunchroom who is sitting alone. Sit at the personal-casual distance (1.5 to 4 feet) next to this person. Observe what the person does. Next, sit facing someone else who is alone, without talking to him or her. Observe what the person does. Was the reaction different when the individual was male or female? Report your findings to your instructor in a written report.

Multiple-Choice Questions

1. Which of the following are features of Berlo's model of communication?
a. source, message, channel, and receiver c. thinking and listening
b. transmission d. attitude

ANS: a

2. Which of the following best describes the interrogation?
a. It is an information-gathering exercise. c. It is a communication exercise.
b. It is an exercise in persuasion. d. It is a proxemics exercise.

ANS: b

3. Which of the following best defines an interview?
a. It is an information-gathering exercise. c. It is a communication exercise.
b. It is an exercise in persuasion. d. It is a proxemics exercise.

ANS: a

4. Which of the following does not fit the required profile of a good interviewer?
a. being insightful c. having the ability to develop rapport
b. having a genuine curiosity about people d. having the ability to be friendly

ANS: d

5. The study of paralanguage examines:
a. the emotion communicated by posture. c. the vocal part of speech and its nuances.
b. the role of personal space in interviewing. d. the role of sentence structure in interviewing.

ANS: c

6. The study of proxemics examines:
- a. the non-verbal communication of personal space.
 - b. the emotion communicated by posture.
 - c. the role of sentence structure in interviewing.
 - d. the qualities necessary for successful interrogation.

ANS: a

7. An estimated _____ of an officer's investigative work consists interviewing.
- a. 25 percent
 - b. 50 percent
 - c. 40 percent
 - d. 80 percent

ANS: d

8. Presumptive prosecution means:
- a. that the perpetrator is presumed to be guilty.
 - b. putting victims at ease assists at trial.
 - c. that the case will go forward to trial regardless of victim cooperation.
 - d. that eyewitness evidence is presumed inaccurate.

ANS: c

9. Which of the following is NOT true about witness information?
- a. It is of little value to the investigation.
 - b. It is notoriously inaccurate.
 - c. It is often unreliable.
 - d. It is often inaccurate.

ANS: a

10. An interrogation should not take place until:
- a. the officer has examined the facts of the case.
 - b. the witnesses have been interviewed.
 - c. the emotional factors that affect validity have been established.
 - d. a non-custodial situation can be set up.

ANS: a

Chapter 2: The Interview Process

Chapter Overview

This chapter introduces the reader to the process of interviewing. The interviewing process is illustrated through three phases. Phase I is a discussion of the preparation process. This process includes a case review, where the interviewer gathers as much information about the incident as possible. As part of the case review, the interviewer must decide if the elements of a crime are present in order to prosecute the offender. Information regarding challenges to this process, such as misinformation and contamination, are also discussed.

Phase II of the interviewing process focuses on the psychological content and questioning strategy. Included in this discussion is the psychology regarding the places where questioning occurs. Interviews occur in certain places based on convenience, desired effect, and available resources. The interviewer will make a choice of interview place based on the specific goals. The benefits of each interview selection are covered in this phase.

The focus of Phase III is the questioning process and the approach used by the interviewer. The interviewer must determine the order of the interviews to be conducted, the questions to be used, and the interview approach with each interviewee. For example, both open-ended and close-ended questions are often used by interviewers but to obtain different information. Examples of interview question types and interview approaches are discussed in this section.

Instructor Notes

1. **Phase I: Interview Preparation**

The movement for more experienced interviewers began in the 1990s. The trend was toward increased training in interviewing techniques for police officers. One of the challenges for the interviewer is to control the events as much as possible, taking the time needed to do a thorough job while at the same time feeling at ease and comfortable with the process.

The interview process consists of three phases. Think of the first phase of the interviewing process as the “must-do list” prior to all interviews. The steps in Phase I include the following:

- *Case review*: This step includes gathering information from all available sources.
- *Determine prior criminal record*: This step includes determining if prior records exist for the perpetrator and all witnesses.
- *View the scene*: This step includes personally viewing the scene whenever possible.

2. **Misinformation**

Misinformation is a major pitfall that can impede your efforts to obtain quality information from the interviewee. It could affect the information that you receive during an interview.

Misinformation changes the facts of the event and distorts the interviewee’s memory of it. There are two sources of misinformation—*internal* and *external*.

This is not to suggest that individuals who provide misinformation are lying. Instead, it is their special circumstances that give a perspective to the incident that may not be accurate. The interviewer will not be able to control the sources of internal misinformation, but he or she can

control the impact of internal sources of misinformation on the interview. External misinformation is often within the control of the interviewer.

Misinformation refers to internal and external sources of information that produce variation in the answers given by an interviewee.

Sources of *internal misinformation* include cognitive and developmental factors and the relative judgment of the interviewee.

Sources of *external misinformation* include information that the interviewee acquires after the event occurred.

3. **Phase II: Establishment of the Psychological Content**

The second phase of the interview process relates to the way that the interviewer maximizes psychological control by managing who will be present during an interview as well as the time and place it will occur. The interviewer must learn how to control the interview without resorting to dominance. Firm direction when needed, along with taking control of the situation, is important in establishing the needed psychological advantage.

For example, witnesses should be separated prior to questioning them. They should not have the opportunity to speak with each other and form a collusion regarding the incident. Also, a witness should not know what information has already been provided. Privacy is paramount.

Another example of taking control of the interview concerns overcoming objections that surface regarding the person being interviewed. The highest degree of control for the interviewer is at a police station. Consider the possible reactions to that place prior to selecting it.

4. **Timing of Questioning**

Prior to questioning, the interviewer decides when strategically it is best to conduct the interview. Influences on when to interview include the physical and emotional needs of the witnesses or victim.

An individual who is in pain or extreme emotional distress will not likely provide the most complete statement possible. A decision is made on whether to conduct a preliminary interview in those situations with the intent of conducting a subsequent interview for followup. In some situations, that decision may be to address the pain and continue with the interview. The nature of the offense greatly affects the timing of the interview. If the event was a violent crime and the perpetrator is at large, the interview needs are immediate. Interviewing special populations may require contacting facilitators, interpreters, or persons specializing in those interview populations.

5. **Location for Questioning**

Interviews can take place virtually anywhere. The interviewer selects the place where the control is predictable and acceptable given the constraints of the investigation.

Consider these three reasons in order to select the best place:

- *Convenience*: At the scene for preliminary and offender information.
- *For a desired effect*: Intimidation is highest at the station and lowest in a private home.
- *Due to available resources*: Concerns over facilitated communication or documentation may dictate the best place for the interview.

6. **Phase III: Questioning**

It is predictable that individual accounts of an event may be influenced by the knowledge or specific background of a potential interviewee. This is referred to as an *enhancer*. It is helpful to

know about that expertise or interest prior to the interview so that details can be extracted that will be beneficial to the case. For example, if the investigation is of a gang-related murder, is there a potential witness with a history as a gang member who can add significance to the event? *Enhancers* are special interests that may enable a witness to provide details that seem remarkable.

7. **Open-Ended Questions**

The interviewer can easily control the contamination of a statement by carefully limiting the introduction of information to the interviewee. In a study involving a motor-vehicle accident, some of the suspects were told that one of the vehicles was a police cruiser. Others were not given this information. The group that thought a police cruiser was involved estimated the speed of that vehicle prior to the crash as higher than that of the civilian vehicle. Their information was not accurate, but based on prior belief that police officers drove fast.

How do you avoid this kind of contamination? To avoid the contamination of a person's memory, questions should be asked in a way that does not provide information and allows for a narrative. These are called *open-ended questions*.

An opened-ended question is a question that is asked in a way that encourages a narrative by giving direction to the interviewee because it does not limit the answer, it is broad, and it is non-specific.

8. **Closed-Ended Questions**

At some point during the questioning, it may be necessary to ask a *closed-ended question*. Although this is the most common type of question, its use should be limited to the fact-finding interview. It only requires a "yes" or "no," or brief answer, from the interviewee.

Use the closed-ended approach to verify information already provided, for filling in the gaps of information, and for obtaining specific factual information that is not subject to having been changed by the perspective of the interviewee.

Short-Answer Questions

1. What is the *social systems approach* to interviewing, and what themes are found in modern social systems theory?

The *social systems approach* to interviewing suggests that interviews are made up of parts that are intertwined with and interdependent on each other and inclusive of the perspectives of everyone involved. Each part influences the entire process. *Caring*, *self-development*, and *postmodernism* are themes that are a part of this approach:

Caring: This is a cultural characteristic, supported in the development of expression from the perspective of others. This means that interviewees relate their experiences from their perspective based on their previous experiences. For instance, their past experiences with police officers could impact their responses.

Self-development: This encourages the interviewer to be vigilant and self-aware during the interview process. The interviewer must listen, watch, and be aware of what is going on in the room at all times.

Postmodernism: According to the postmodernist view, all information is contextual. This theme emphasizes the role of power that is inherent in any interview conducted by police officers. The

interviewer is not only seen as an individual but also as a representative of a powerful organization of law and order.

2. Phase I of the interview process entails preparation for the interview. What happens during the *case review step*, and what is its purpose?

The purpose of the *case review step* is to gather as much information as possible to determine the validity of the case. This step is also used to assess the credibility of the individuals involved in a particular case. By doing this, the investigator can identify problems and any areas that might need more attention.

3. What information should the first responder collect upon arriving at the scene of a crime?

The first responder case review begins after the initial call. The investigator should review the specifics of the case, such as the number of people involved, gender, age, physical description, and whether a weapon was used. Records for both the suspect and the victim will provide important information, so a check should be conducted. Also, the scene should be viewed by the interviewer. The main goal is to collect as much information as possible about the incident.

4. What is *contamination*, and when can it occur?

When a person's memory of an event is changed due to the introduction of misinformation, it is referred to as *contamination*. Contamination can occur at different stages of an investigation. One of the most common sources of eyewitness error is when witnesses' memories become contaminated by information that they have acquired since they witnessed the event. The most common source is eyewitness error, but the interviewer can also contribute by influencing statements of victims, witnesses, and suspects through the questions that are asked and the way in which they are phrased. Contaminants are leading questions that influence the interviewee to say what the interviewer wants to hear. Lineups are contaminated when the victim is shown a photo of a person who later appears in the lineup.

5. When should the interview take place, and where should questioning occur?

Officers can interview witnesses at the scene; however, the nature of the offense may influence the timing of the interview. Special populations such as children, elders, and persons with a disability should be interviewed at a time when they can be responsive to interviewer questions.

Interview location is selected based on the following three criteria:

Convenience: It may be more convenient to interview people at the scene of the crime when collecting preliminary information.

Desired effect: Interviewing at the police station may introduce a sense of intimidation and control that can benefit the interviewer. Also, home interviews benefit the interviewer by giving the interviewee a false sense of security.

Available resources: Some special populations require resources that can facilitate communication. The interviewer may want a special room or the tools available to record the interview.

6. What is the difference between *open-ended* and *closed-ended questions*?

Open-ended questions do not limit or direct an answer. When interviewers are trying to get interviewees' full experiences, they will ask an initial open-ended question (What happened?). If there is a need for clarification, clarifying open-ended questions are used to get more information (What did you do?). It is important that interviewers allow interviewees to tell their stories in entirety before responding or interrupting. Any intervention by interviewers can send the message that what interviewees have to say is not important, and they may not reveal all the details of their experience of the event.

Closed-ended questions require a brief response. They are often used to verify information and fill in gaps (When did you get home?).

7. Briefly explain the other types of questions used in an interview.

Followup questions: These questions can be open-ended or close-ended and they have the purpose of clarifying prior information.

Direct or forced-choice questions: Direct questions are closed-ended questions that are used when the interviewee is withholding information.

Control questions: These questions establish that the interview is not over. They are used when interviewers feel they are losing control of the interview, with the purpose of getting control back by calming/reassuring interviewees.

Leading questions: This method is used when interviewers want to guide interviewees through a particular line of reasoning. They suggest an answer and are often not reflective of the interviewees' experience. These types of questions should be used with caution.

Confrontational questions: Confrontational questions are used when interviewers have decided that being friendly and helpful is no longer a necessary method of obtaining information. These questions are firm and confrontational by nature.

8. Preparing for an interview takes a lot of work. There are many variables to consider, and the interview approach is one of them. Briefly describe each approach and when it is most useful.

Oblique approach: This is best used when interviewees are willing to tell their story with little prompting. Interviewers only ask questions to clarify certain points.

Formal approach: This approach can be done in a formal environment such as a police station. This interview approach is best used to manage interviewees who appear overly confident or condescending.

Informal approach: This method usually takes place in the home of the perpetrator. It is a non-adversarial approach and no custody occurs. Interviewers ask questions of suspects, encouraging them to provide information that may lead to their arrest.

Fill-In Questions

1. The approach to interviewing used in this chapter focuses on caring, self-development, and _____, which emphasizes the role of power that is inherent in any interview. (postmodernism)

2. The focus of Phase I is _____. (interview preparation)

3. The purpose of _____ is to gather as much information possible to determine the validity of the case. (case review)

4. _____ occurs when witnesses or victims give misinformation through leading questions, when lineups are not conducted properly, or when memories are distorted. (Contamination)
5. Short interviews done at the scene of the crime are usually done out of _____. (convenience)
6. When interviewers are seeking a full narrative response, they will ask _____ questions. (open-ended)
7. _____ questions are used to verify information. (Closed-ended)
8. When _____ are introduced into the interview, the interviewer can no longer go back to being friendly or helpful. (confrontational questions)
9. The best approach toward interviewees who are willing to talk is the _____. (oblique approach)
10. _____ is the most desirable physical arrangement between the interviewer and the interviewee. (Corner-to-corner or 45-degree angle)

Exercises

1. Find at least one article in the library containing an interview; in particular, news articles on controversial issues or political candidates often contain interviews. From the written interviews, identify the type of questioning used most: open-ended or closed-ended. The student must evaluate the article and the quality of responses as well as the type of question that elicited the response. Require that the student write a short paper citing the source used and detailing the evaluation.
2. View the PowerPoint presentation with audio interviews from *Eyewitness Evidence: A Trainer's Manual for Law Enforcement*. View only "Part 1: Interviewing Procedures—Initial Response to the Crime." During the PowerPoint presentation, closed-ended questions are provided. Convert these to open-ended questions in writing.

True/False Questions

1. When the person is being truthful, the interviewer can expect the initial narrative to contain the greatest amount of information about the event itself.
ANS: F
2. Confrontation questions are accusatory and should be used early in the interview process.
ANS: F
3. A direct or forced-choice question is a closed-ended type of question.
ANS: T
4. Leading questions are best used when interviewing children.
ANS: F

5. Witnesses should be separated prior to interviewing.
ANS: T

Multiple-Choice Questions

1. According to this view, all information is contextual.
a. contamination
b. self-development
c. postmodernism
d. caring
ANS: c

2. Which of the following is NOT one of the influencing themes according to the social systems approach?
a. caring
b. self-development
c. postmodernism
d. psychological
ANS: d

3. The cultural characteristic in interviewing that supports expression from the perspective of the interviewee is:
a. caring.
b. self-development.
c. postmodernism.
d. psychological.
ANS: a

4. Which of the following is NOT a primary question type used for interviewing?
a. leading
b. closed-ended
c. clarifying open-ended
d. initial open-ended
ANS: a

5. One of the most common sources of eyewitness error is:
a. open-ended questioning.
b. contamination.
c. narratives.
d. enhancers.
ANS: b

6. Which of the following is a primary influence on when the interview should occur?
a. the level of distraction
b. the nature of the offense
c. the number of distorters
d. what happened after the offense
ANS: b

7. Followup questions can be:
a. open- or closed-ended.
b. open-ended only.
c. closed-ended only.
d. determined by the five senses.
ANS: a

8. The parts of the initial narrative include:
- a. recognized enhancers.
 - b. both open-ended and closed-ended responses.
 - c. numerous distorters.
 - d. information about what happened prior to the event, during the event itself, and afterwards.

ANS: d

9. Which of the following is NOT a primary concern when determining where the interview should occur?

- a. the convenience of the interviewer
- b. the gender of the interviewee
- c. for a particular desired effect
- d. the resources available to the interviewer

ANS: b

10. For an initial interview in a formal setting, the chairs should be:

- a. at a 90-degree angle.
- b. at a 45-degree angle.
- c. in front of and at the other side of the desk.
- d. face to face.

ANS: b

11. Examples of enhancers include:

- a. the five senses.
- b. lack of sleep.
- c. pain, hunger, and distress.
- d. high emotions.

ANS: a

12. Examples of potential distorters include:

- a. location and distance from the event.
- b. the five senses.
- c. special interests.
- d. what was happening prior to the event.

ANS: a

13. A major cause of memory contamination occurs through:

- a. the psychological content.
- b. distorters.
- c. enhancers.
- d. leading questions.

ANS: d

14. Interview approach options include:

- a. oblique.
- b. formal.
- c. informal.
- d. all of the above.

ANS: d

15. A primary question type is:

- a. open-ended.
- b. a direct or forced choice.
- c. a control question.
- d. leading question.

ANS: a

Chapter 3: Purposeful Interviewing and Processes

Chapter Overview

Chapter 3 introduces the student to the idea that the nature of the offense can dictate different interview strategies. Purposeful interviewing refers to that need for flexibility in the interview approach. Asking specific questions should not be haphazard, nor should the questions be too tightly structured. The interviewer is able to change and evolve during the interview to respond to the individual that was affected by a particular crime. This is possible because the way that distinctive crimes affect groups of people is somewhat predictable. For example, the concept of continuation or morphostasis predicts that individuals who are part of a family unit will pull together against opposing or intervening outsiders during crisis. When interviewing victims about crimes perpetrated by a family member of a loved one, it can be the primary objective of purposeful interviewing to examine the nature of the offense, determine if a crime was actually committed, and identify the perpetrator.

Instructor Notes

1. **Active Listening**

A criticism of criminal-justice interviewing has long focused on the lack of attention that interviewers appear to show toward persons being interviewed. Caring or empathy has not been a concern for interviewers. Questioning has been a narrow focus on what the interviewer wants, without regard for the interviewee.

Until recently, the benefit of active listening has not been apparent. Professionals now know that demonstrating active listening can increase the quality and quantity of information that is provided by an interviewee. Active listening involves a greater emphasis on the person being interviewed, the manner in which the interviewee is providing information, and the non-verbal cues that are being provided during the interview.

Active listening: A skill that makes evident to the person being interviewed that the interviewer is attentive to what is being said.

2. **Methods of Demonstrating Active Listening**

The interviewer may demonstrate to the interviewee that he or she is listening actively through *body language*. This involves a concerted effort to look interested by nodding the head when appropriate and varying the eye contact.

The interviewer may also demonstrate to the interviewee that he or she is listening actively through *body posture*. The interviewer purposefully leans slightly forward toward the interviewee and may shift as the subject does to show congruence.

3. **Purposeful Interviewing**

The objectives to interviewing should not be taken for granted. Information is useless to the criminal-justice interviewer unless it can contribute to the primary objectives of problem solving. While active listening tends to expand the amount of information that may be gathered during an interview, *purposeful interviewing* categories that information for use.

The goals of purposeful interviewing include *examining the nature of the offense, determining if a crime was committed, and identifying the perpetrator.*

Short-Answer Questions

1. What are the three general characteristics that assist in *framing* purposeful interviewing? The three general characteristics that assist in *framing* include examine the nature of the offense, determine if a crime was actually committed, and identify the perpetrator.

2. Why is understanding *non-verbal cues* received from interviewees important to the interviewer? *Non-verbal behaviors* may communicate what interviewees cannot bring themselves to state openly.

3. Why is it so important to interview the first-arriving firefighters in a suspected arson? They can tell what they saw and where the damage to the building was located.

4. What are some of the main reasons victims of domestic violence may be reluctant to provide details of their assault? There are often strong emotional ties between the victim and the offender in these cases. The victim may even be financially dependent on the assailant. In some cases the perpetrator faces loss of employment if convicted of domestic violence.

5. What are some of the requirements necessary for a crime to be considered one of domestic violence? To be considered domestic violence, legally recognized domestic relationships must exist between the victim and the perpetrator. These include the following: married and previously married persons; persons who have a child in common; partners of same-sex relationships; parents and their children or grandchildren; siblings; extended family members through blood or marriage; persons that live under the same roof, regardless of affiliation; and substantial dating relationships.

6. How accurate are eyewitnesses? What are some of the issues affecting eyewitness testimony? Eyewitness identification is not considered the most reliable form of evidence and will be closely scrutinized by the court. Contamination and strict legal rules affect eyewitness testimony.

7. What are the *main characteristics* of purposeful interviewing? The three main characteristics of purposeful interviewing are personal conduct, rapport development, and active listening.

Fill-In Questions

1. Two types of lineups that are often used to identify the suspect are _____ and _____. (live; photo)

2. _____ refers to the realization that statements are sought for specific reasons. (Purposeful interviewing)
3. _____ may communicate what interviewees cannot bring themselves to state openly. (Non-verbal behaviors)
4. When interviewing the victim of a hate crime, there may be a _____ on the part of the victim toward anyone who resembles the attacker. This obstacle to interviewing is important to anticipate and overcome. (heightened distrust)
5. When being interviewed, illegal aliens may give a false name due to their fear of _____. (deportation)
6. When interviewing the victim of a sexual assault, _____ questions should be asked that allow the victim to describe the events in his or her own words. (open-ended)
7. _____ are developed from separate photographs or sketches of facial features. (Composites)
8. Sudden silence, uncertainty or confusion, or the shifting of conversation to an unrelated subject may indicate that _____. (information is being withheld)
9. During the interview, the interviewer should listen to the subject's _____, _____, and _____. (tone; voice inflection; level of excitement)

Exercises

1. The New York State Defenders Association has an interesting Web site that provides information and links about police lineups and identification techniques. Choose one problem that has been associated with police identification techniques, and find a proposed method of solving it. The Web address follows:
http://www.nysda.org/Hot_Topics/Eyewitness_Evidence/eyewitness_evidence.html.
Note: Some of the articles on this Web site are not available without subscription. However, most may be found in a search of the library journal holdings.
2. Take 10 minutes to have a conversation with someone in the class that you do not know and with whom you have never spoken. Ask him or her to explain something that he or she enjoys doing in his or her spare time. Listen intently to the words that he or she uses. What can you tell about where this person comes from based on the way he or she speaks?

True/False Questions

1. Purposeful interviewing involves the realization that statements are sought for specific reasons.
ANS: T
2. Active listening and rapport development are a waste of valuable interviewing time.
ANS: F

3. Sudden silence, uncertainty, or confusion may indicate that:
- a. the person is lying.
 - b. the person is in shock.
 - c. information is being withheld.
 - d. information is given reluctantly.

ANS: c

4. When interviewing the victim of a sexual assault, the questions should be:
- a. closed-ended.
 - b. open-ended.
 - c. leading.
 - d. confrontational.

ANS: b

5. Comprehensive questioning involves:
- a. getting as much information as possible.
 - b. thinking outside of the "box."
 - c. the application of social systems theory.
 - d. all of the above.

ANS: d

6. Active listening can be demonstrated to the interviewee through the interviewer's:
- a. body posture.
 - b. body language.
 - c. lack of negative response to statements.
 - d. all of the above.

ANS: d

7. Purposeful interviewing means:
- a. that the interviewee must say what he or she really means.
 - b. having a goal.
 - c. that the nature of the offense will dictate different questioning approaches.
 - d. none of the above.

ANS: c

8. In determining whether a crime was committed, police officers need:
- a. knowledge of the elements of the crime under investigation.
 - b. forensic evidence.
 - c. a gut feeling that a crime was committed.
 - d. a legal expert for consultation.

ANS: a

9. Testamentary evidence is:
- a. a form of physical evidence.
 - b. new forensic evidence.
 - c. evidence of what a witness will say in court.
 - d. all of the above.

ANS: c

10. Physical evidence is:
- a. something that may be seen.
 - b. something that may be touched.
 - c. something that may be smelled or tasted.
 - d. all of the above.

ANS: d

11. A primary justification for interviewing involves:
- a. the opportunity for practice.
 - b. a show of force.
 - c. the identification of the perpetrator.
 - d. empathy for the victim.

ANS: c

12. The primary aggressor in a domestic relationship is:
- a. the person who is most angry.
 - b. the person who is exercising power and control over the other.
 - c. the male.
 - d. the physically larger person involved in the dispute.

ANS: b

13. Eyewitness identification is:
- a. an extremely reliable form of evidence.
 - b. not considered the most reliable form of evidence.
 - c. accepted without scrutiny by the courts.
 - d. generally rejected by the courts.

ANS: b

14. A lineup with only one participant that occurs a short time after the commission of a crime is called:

- a. a quick lineup.
- b. a show-up.
- c. a composite.
- d. a live lineup.

ANS: b

15. A suspect has no right to counsel:

- a. at a live lineup.
- b. before being used in a photo lineup.
- c. The suspect always has the right to counsel when being involved in police lineups.
- d. both a and b are correct.

ANS: d

Part II: Methods and Techniques

Instructor Tips

At this point in the course you may want to assign a research paper. Following is suggested text for a handout on research paper expectations that you may copy and/or change to meet your own expectations:

Please email your topic to me; it must be approved before you begin writing your paper. Your research paper is expected to be a minimum of 5 pages (not including the abstract or references).

☺ Papers must be typed and doubled spaced using Microsoft Word, a 12-pt. font, and 1-inch margins. ⚠ Papers written using MS Works or other software will be returned with a zero grade.

At least two independent sources (texts and journal articles) and two Web sites must be cited as reference material for this research paper. Do not cite any of your school textbooks. 😬 Use APA 5th Edition citation only. Do not submit a paper written for any other class. ⚠

Double space, spell check, and use correct grammar throughout the paper. Since this is a “research paper,” you must demonstrate that you did research by the use of proper citations (no footnotes). Remember to include a separate “References” page, which is not included in the page count of your paper. It is perfectly acceptable to conduct some research online, but be sure to document these sources correctly and to assess their credibility before using them! Just as it is not acceptable to use tabloid newspapers as source material, neither is it proper to use Web sites that are not up to academic standards. You can search the WNEC Library online at <http://libraries.wnec.edu/right>. If you’re not sure how to access the library, consult the following Web site: <http://www.wnec.edu/CE/online/library.html>.

Be sure to save a copy of your paper on your computer’s hard drive or on a CD prior to submitting it. It is not unusual for my computer to become infected with a virus, so you should be prepared to resubmit your paper if a problem occurs. Papers submitted past the due date will not be accepted for grading. 😬

Additional Exercises for Chapters 4–6

1. **Traditional vs. Structural Interviewing Methods**

Introduction: This assignment compares the traditional and structural approaches to interviewing that you have read about in Chapter 4 of your textbook.

Assignment: Write a report that compares the traditional and the structured interviewing methods. Include within this report:

- The six questions that provide the basis for the traditional approach to interviewing and examples of each type of question.
- Despite criticisms, under which circumstances would the traditional approach to interviewing be a valid choice for an interviewer?
- Explain the difference between the structural and traditional interviewing approaches.
- Are there circumstances in which the interviewer would choose one approach over the other?
- Under what circumstances would such a choice occur?

Submit your report to your instructor in a Word document (250–300 words).

2. Field Statement Analysis

Introduction: This assignment examines the statement analysis approach and applies its principles to field statement analysis.

Assignment: Write six examples of questions that you would use during a field statement analysis. The questions you list should be those that would demonstrate the following two components: lack of conviction and extraneous information. Also, for each question, explain why the question is important. How would it help a field statement analysis? Submit your response in a Word document (200 words) to your instructor.

3. Successful Interviewing

Introduction: Dr. Paul Ekman has been a pioneer in the study of emotions and facial expressions. In an effort called the Diogenes Project, Ekman reported facial “microexpressions” that he claimed could be used to reliably detect lying. This assignment requires you to research one of Ekman’s articles and evaluate it.

Assignment: Read the following article by Paul Ekman:

Ekman, P. (1996). Why don’t we catch liars? *Social Research* 63, 801–817.

The article can be found at <http://www.paulekman.com/articles.php>.

Write a post on the online discussion forum responding to the question that is the title of the article: Why don’t we catch liars? Include your own opinion, while evaluating the point of view expressed in the article. Also respond to the posts of at least two other students. In your response explain why you agree or disagree with their evaluation of the article.

4. Sensory Verbal Communication

Introduction: To prepare for this assignment, it is important to read and clearly understand the concepts of “mirroring” and “shifting,” terms that are found in Chapter 6 of your textbook. Have these definitions available when doing this assignment.

Assignment: The exercise requires one initial online posting of a sensory victim statement and two response postings, one to model the victim statement and another to sense shift a victim statement. Post your responses on the Discussion Forum.

1. You must develop and post one *sensory victim statement*. Examples of sensory victim statements follow: “I heard him coming through the door”; “I heard a noise.” These examples use the sense of hearing; choose any sense that you want to use in your victim statement.
2. Also respond to one sensory victim statement with a *model* to the victim statement. This model statement would be a followup question based on the sensory victim statement. The idea is to use the same sense as the victim; it is a way to get more detail. For example, if student A writes, “I heard a noise,” your model statement might be, “What did the noise sound like?”
3. Next, provide a *sense-shifting phrase* to one model phrase. This question would be an alternate phrase in an interview that would shift the sense of the previous model, again, for the purpose of obtaining more information. For example, if student B writes, “What did the noise sound like?,” a sense-shifting phrase might be, “What did you see?”

Additional Instructor Resources

1. **Eyewitness Evidence: A Trainer's Manual for Law Enforcement.** (09/2003 Edition; 62 pp.) This training manual includes a CD-ROM presentation that follows the training manual, supplementing it with audio and visual files at appropriate intervals. (You need Microsoft PowerPoint in order to see it.) Also included is a PDF file of *Eyewitness Evidence: A Guide for Law Enforcement* (1999 Edition; 55 pp.). Report No. NCJ 178240. U.S. Department of Justice, Washington, D.C.

Download this file from the following Web address:

<http://www.ojp.usdoj.gov/nij/pubs-sum/188678.htm>.

Order a hard copy or the CD-ROM by visiting the following address:

<http://www.nacdl.org/public.nsf/0/2edfb22a5576defe85256ae900699e61?OpenDocument>.

2. **The Human Face (2001).** A Warner Home DVD or Video available through Amazon.com for \$26.98. Produced by the BBC as a 4-hour series, this program was broadcast on the Learning Channel in the United States.

3. **Eyewitness Reliability.** Kebbell, M.R., Johnson, S.D., Froyland, I., and Ainsworth, M. (2002). The influence of belief that a car crashed on witnesses' estimates of civilian and police car speed. *The Journal of Psychology* 136(6), 597–607.

4. **Digital History.** This is a Web site that contains movie trailers of historical value. The trailers are free for educational use. Access them at the following Web site:

http://www.digitalhistory.uh.edu/trailers/trailers_title.cfm.

Chapter 4: Traditional, Structural, and Inferential Interviewing with Statement Analysis Techniques

Chapter Overview

Chapter 4 discusses the typical police interview approaches. It covers guidelines to the traditional approach, the structured approach, and the inferential interview. Each of these methods is adaptable to the situations in which questioning might occur. The traditional and structured approaches are the methods most frequently used for criminal-justice interviewing. The inferential interview is a new approach that is being used to detect deception in a statement through a question-by-question analysis.

While traditional interviewing is criticized as a “just-the-facts” approach, it is well-suited for the field interview situation. Not to be discounted, traditional interviewing is an adequate method in which to make preliminary assessments and to determine the level of cooperation that can be expected from witnesses or victims. It is often the only method in which the bare-bones information on the crime and suspect can be gathered from a victim for dispatch. Structured interviewing builds on the traditional approach by adding rapport-building, narrative description, and an ample interviewee-response opportunity. Its use extends the field-interview opportunity to gather more complete information.

Both inferential interviewing and statement analysis incorporate deceit detection. Briefly introduced to the student is inferential interviewing, which rests on statement characteristics and question-by-question analysis. Statement analysis is described along with a shorter version that has promise for use in the field.

Instructor Notes

1. Briefly introduce the students to the criticisms of the traditional interviewing approach, which are found in the introduction to Chapter 4 in the textbook. Write these on the whiteboard so that they may be referenced during the discussions that follow.
2. Introduce the traditional interviewing method from the historical perspective. Explain to students that the original “just-the-facts” approach to interviewing is demonstrated by the 1950s television program *Dragnet*. Go to http://www.digitalhistory.uh.edu/trailers/trailers_title.cfm and play the two television trailers for the 1954 and 1956 *Dragnet*. Initiate a discussion to ensure that students understand that these methods are pre-*Miranda* decision. You may lead the discussion by asking the students what they saw the officers of *Dragnet* doing to witnesses that would not be permissible today. Ask students the following questions:
 - Was the questioning format open-ended or closed-ended?
 - Did the questioning appear to be unusually abrupt?
 - Was the approach simplistic?
 - Did you notice the lack of direction?
3. Next discuss the positive aspects of the traditional approach to interviewing. Initiate a discussion on the value of the traditional approach as a tool for making preliminary assessments of the witnesses. You may lead the discussion by asking the students the cite circumstances

under which this approach would be helpful. For example, it may be useful for a first responder to determine “who did what.” The approach is also helpful in circumstances where the suspect is unknown or at large.

Short-Answer Questions

1. What does *traditional interviewing* hope to attain?

In *traditional interviewing*, the interviewer attempts to distinguish the truths through the statement from the subject. Its purpose is to limit the information from eyewitnesses to that considered specifically necessary for the investigation being conducted.

2. Why is it important to determine the role the *complainant* may have played in the commission of a crime?

The *complainant* may be the victim, someone who saw the crime occur, or someone who has information about the crime being investigated. Sometimes the complainant is the perpetrator and is attempting to divert police attention away from his or her own actions.

3. Is it important to know why a crime has occurred at a particular location? Explain.

Yes, it is important to know why a crime has occurred at a particular location. In addition to establishing the place where the event happened, questions should be asked to determine why it happened at that particular place. In a purse-snatching incident, the event may have taken place on a street with a burnt-out light. This may indicate that the perpetrator was familiar with the area rather than it having been a random attack. If the event was in a home, whose home is it? Was the person an invited guest or an intruder? Were there indications of forced entry?

4. Why is learning the proper sequence of events so important to an interviewer?

Knowing the exact sequence of events can render the event plausible or not. How did the perpetrator get access to the victim, to the money stolen, or to the area to cause damage? Once access was gained, what was the manner in which he or she committed the act? What were the instruments or tools that were used in the commission of the act?

5. Is it important for the person being interviewed to know the position of the interviewer? If so, why? If not, why not?

Yes, this is important. Persons being interviewed should be treated with dignity and consideration. Introduce yourself and ensure that the person is aware of your position.

6. In a *structured interview*, should the person being interviewed be encouraged to play an active part in the discussion? If so, why? If not, why not?

Yes, the interviewee should be encouraged to actively participate in the discussion. Attempt to build rapport so that the person being interviewed is at ease and is willing to give information. Encourage the individual to participate actively and to report information rather than to simply respond to the questions that are being asked.

7. During an *inferential interview*, what inferences may be drawn from the sentence structure of the answers received?

The words, phrases, and sentence structure provide clues for further investigation and contain a wealth of information for the interviewer (Rabon, 1994). From this perspective, sentence construction is influenced by the individual's learned communication skills in addition to whether the person is trying to convince, deceive, or be truthful. Statements may be examined for what is missing and what is apparent. A key component is that the interviewer be open to what the words may reveal.

8. What types of interviews can benefit from *statement analysis*?

Statement analysis can be used with any interviewing method as an assessment of the information that has been recorded in a statement.

Fill-In Questions

1. The structured interviewing approach uses the best of _____ methods while applying principles used in _____. (traditional questioning; cognitive interviewing)

2. In the early stages of an investigation, it is important to find out which individuals _____ about the case versus those who _____. (have information; do not)

3. If preliminary questions reveal that the complainant may be the suspect, then the approach changes from an _____ to an _____ as necessary. (interview; interrogation)

4. Questions should not be phrased in a way that _____ the person being interviewed to give a particular answer, nor should they be _____. (leads; accusatory)

5. Interviewing should establish the _____ of the case. (*mens rea*)

6. Use _____ and _____, when helpful, to make sure that you and the person being interviewed have a mutual understanding of the event. (sketches; drawings)

7. A promising new approach to interviewing is evidenced by the _____, a method to detect deception through statement characteristics and question-by-question analysis. (inferential interview)

8. Based on the idea that _____ will contain language characteristics that are absent from statements that are the _____, statement analysis is the word-by-word examination of the grammar within a statement. (statements of experience; products of imagination)

9. When asked, "What happened?," a truthful person with nothing to hide will recount the events in _____. (chronological order)

10. When an individual claims not to remember parts of the narrative, this is known as _____. (repression)

2. The person who reports a crime or accuses another of an offense is known as:
- a. a side-tracker.
 - b. a complainant.
 - c. a reporter.
 - d. a leader.

ANS: b

3. When attempting to determine the “what” of a crime in the traditional interviewing technique, the interviewer should:

- a. ask leading questions.
- b. be direct and accusatory.
- c. avoid leading questions.
- d. show the person who is boss.

ANS: c

4. The guidelines to traditional interviewing involve questions that:

- a. are meant to be abrasive.
- b. use the five W’s and How.
- c. are behavioral in nature.
- d. include memory jogging.

ANS: b

5. Leading questions may:

- a. be dangerous.
- b. provide misinformation to the person being interviewed.
- c. cause a witness or victim to make up an answer.
- d. all of the above.

ANS: d

6. Asking “why” in the traditional approach to interviewing helps to:

- a. understand the offender’s response.
- b. understand the victim’s response.
- c. establish the *mens rea* of the victim.
- d. establish the *mens rea* of the offender.

ANS: d

7. Which of the following does NOT apply when conducting the traditional interview?

- a. Treat all people with dignity.
- b. Only make promises of confidentiality.
- c. Do not use professional jargon.
- d. Use sketches and drawings to make sure that there is a mutual understanding of the event.

ANS: b

8. An indirect approach in traditional interviewing:

- a. is exploratory.
- b. uses leading questions.
- c. is used with an uncooperative person.
- d. is specific questioning.

ANS: a

9. A direct approach to traditional interviewing is:

- a. exploratory.
- b. used with a cooperative person.
- c. the asking of specific questions.
- d. used to establish rapport.

ANS: c

10. The structured interview approach is designed to:
- a. be used with an uncooperative person.
 - b. maximize recall and minimize contamination.
 - c. be used with a cooperative person.
 - d. assist in statement analysis.

ANS: b

11. Which of the following is NOT one of the four structural interviewing steps?
- a. Build rapport.
 - b. Obtain a narrative description from non-leading and open questions.
 - c. Determine the sequence of events.
 - d. Request that the interviewee recount the entire event a second time.

ANS: c

12. A statement should make sense by not violating the rules of nature or contradict itself. This is known as:

- a. coherency.
- b. the response rate.
- c. the type-token ratio.
- d. verbal hedging.

ANS: a

13. Verbal hedging:

- a. is a verbal contradiction within the statement of a victim.
- b. refers to the number of unique words divided by total words in a statement.
- c. results in deception through a slower speech rate and increased speech errors.
- d. is a method used by the interviewee to avoid answering and to buy time.

ANS: d

14. A word-by-word examination of the grammar within a statement is called a:

- a. statement balance.
- b. statement analysis.
- c. type of extraneous information.
- d. type-token ratio.

ANS: b

15. Which of the following is NOT a component of statement analysis?

- a. examining parts of speech
- b. using mnemonics
- c. looking at statement balance
- d. a lack of conviction in the statement

ANS: b

16. A field statement analysis is:

- a. a shortened version of statement analysis.
- b. an approach that uses only the lack of conviction and extraneous information standards.
- c. Both a and b are correct.
- d. Neither a nor b is correct.

ANS: c

17. Deception that is highly motivated has been associated with shorter response length, a slower rate of speech, and more speech errors. These behaviors are known collectively as:

- a. verbal leakage.
- b. verbal hedges.
- c. statement coherence.
- d. statement analysis.

ANS: a

Chapter 5: Forensic Hypnosis and Cognitive Interviewing

Chapter Overview

The cognitive interviewing method and forensic hypnosis are presented in Chapter 5. The techniques of hypnosis are introduced in this chapter with the understanding that proficiency in this method should be obtained through continued study before its use in criminal investigation. The complexity of hypnosis and the regulations on its use for investigative purposes suggest that this be an introduction to the approach. Criticisms to the use of hypnosis such as confabulation, faking, and memory-hardening are discussed.

Cognitive interviewing has made great strides toward the improvement of witness and victim statements in recent years. This approach is easily learned and its use adapted to a variety of situations that require information-retrieval. The cognitive approach to memory enhancement may be used in part within traditional interviewing approaches. It has gained credibility to the point that it is suggested by the National Institute of Justice. The use of mnemonics is a basis for cognitive interviewing. These memory-jogging techniques should be learned and practiced.

Instructor Notes

1. **Eyewitness Evidence**

The importance of eyewitness identification cannot be overestimated. Identification of a perpetrator often rests on the memory of those who were victimized or witnessed an event.

Forensic hypnosis and *cognitive interviewing* are techniques that share the same goal—to increase the amount of information retrieved from the person being interviewed. Neither approach has been recommended for interrogation purposes since they both require a willing interviewee. Guidelines determine when and how these techniques should be used.

Forensic hypnosis: An investigative memory-retrieval technique used to enhance recall.

Hypnosis: A state of increased receptivity to suggestion characterized by an altered state of consciousness.

2. **Phases of Forensic Hypnosis**

Few states allow the introduction of hypnotically refreshed memory in court as evidence in a civil or criminal case. Those that do allow its use mandate specialized training and certification for police officers. *Don't use this method without proper state certification.*

The forensic hypnotic approach begins with preparation. All existing evidence must be documented to differentiate between pre- and post-hypnotic information. During induction the hypnotist relaxes the suspect and tests his or her responsiveness to suggestion. The narrative phase involves the event description. A common technique is that of age regression. The subject is brought out of the hypnotic state through instruction from the hypnotist. This stage closes the session. A recall phase is used to test the recall of the event since the hypnotic session began.

3. **Challenges to the Use of Forensic Hypnosis**

Confabulation is the term is used to describe the process of creating false memories that may occur during the process of telling a story or induced by therapists or interviewers. It is usually an unconscious process of reshaping incidents from the past to fit present needs or to fit a desired outcome. It may contain elements that are factual or a complete construction of imagination. The term is often used to describe the recollections of people who claim to have been abducted by aliens and for false memories induced through therapy.

Confabulation: The confusion of true memories with false memories or distortions of events that may have occurred.

4. **Subtopic: The Foundation of the Cognitive Technique**

The foundation of the cognitive interviewing method is the use of *mnemonics*. Mnemonics are a memory tool, a method for remembering information that is otherwise difficult to recall.

Mnemonics: Memory-jogging techniques.

There are four primary mnemonics used for cognitive interviewing:

- *Reconstruction mnemonic*: This mnemonic involves the use of the senses to help mentally reconstruct the context of the event.
- *Reporting-everything mnemonic*: This mnemonic encourages the interviewee to report every detail, regardless of apparent importance.
- *Changing-the- order-of-events mnemonic*: This mnemonic recalls the events in a variety of orders, moving backward and forward in time.
- *Changing-the-perspective mnemonic*: This mnemonic changes perspective and recalls from a different point of view.

Short-Answer Questions

1. What are some of the arguments against the use of hypnosis during court testimony?

The legal and medical community has long taken positions against the accuracy of facts recalled under hypnosis in hotly contested debates regarding its reliability. In 1985 the American Medical Association recommended that the use of hypnosis be limited to the investigative processes and its results not be used as evidence in court because the increased memory is not limited to only accurate recollections. The primary objection to hypnosis is that eyewitnesses may become more susceptible to leading and misleading questions.

2. What are three common uses of hypnosis for a criminal investigation?

Three common uses include enhancing an accused defendant's memory about events occurring around the time of the crime; helping an eyewitness of a crime provide details about the behavior or physical appearance of the perpetrator; and assisting in generating leads for investigators through recall of a salient detail.

3. What does the successful application of forensic hypnosis methods depend on, according to McConkey and Sheehan?

The use of forensic hypnosis should be consistent with the government legislation in your state and country relative to hypnosis. Its use must be consistent with clinical and legal safeguards designed to ensure the well-being of the subject involved. A clear statement of the rationale for

using hypnosis must be made prior to the session. Hypnosis should be used for major crime investigations and only after all standard procedures have been exhausted in the investigation.

4. What is *age regression*?

During the narrative phase, the subject is asked to describe the event. A major approach in this phase is *age regression*, also the most common technique used in hypnosis. Here the hypnotist suggests that the subject will return to an earlier age. To regress the subject back to the time of the crime, the hypnotist can use imagery of a calendar going backward, of the subject watching television, or of the subject walking toward the scene of the crime.

5. Why is hypnosis not recommended for use on a defendant or person suspected of being involved in the crime under investigation?

Forensic hypnosis is not recommended for use on a defendant or person suspected of being involved in the crime under investigation because people can and do lie while under hypnosis. Confabulation can occur. The results of a hypnotic session with a suspect are of questionable value.

6. What is the basis for the federal standard known as the Daubert test concerning the admissibility of scientific evidence, which has replaced Frye in some states?

The four-part Daubert test, which has become the federal standard concerning the admissibility of scientific evidence, asks:

- Whether the type of evidence can and has been tested by scientific methods
- Whether the underlying theory or technique has been subjected to peer review and published in the professional literature
- How reliable the results are in terms of potential error rate
- Whether general acceptance can have a bearing on the inquiry (the old Frye test)

7. How do *mnemonics* jog the memory in order to find information that is not easily accessible?

Recall through *mnemonics* requires the use of imagination, association, and location. Use of imagination does not suggest fantasy but rather imagery. The description of an event will be more realistic and complete if an individual verbalizes how he or she felt or reacted at the time of a crime.

8. What is the *reconstruction* technique?

Reconstruction is accomplished by asking witnesses to relive mentally the events prior to, during, and after the crime. Instruct the witness that reconstruction includes talking about the time of day, day, month, and year of the event. In other words, reconstruct the scene according to when it happened. What was the weather, how did he or she know? Was it light or dark? This line of thought will open up thoughts, particularly when multiple events or assaults had occurred, in an effort to separate them into single occurrences that are blurred over time.

9. What is the correct order of the cognitive interview, and why is it important?

To be effective, each step in the cognitive interview must take place in order:

- Step 1—Meet and greet
- Step 2—Narrative phases
- Step 3—Extensive recall through mnemonics
- Step 4—Summary and closure

10. What is *scripting*?

Since memory may have gaps due to encoding problems, the brain fills in with *scripted* memories. Scripts are the memory of how things are supposed to happen. The use of scripting is not an indication that the individual is lying, but rather that he or she may be filling a memory gap.

Fill-In Questions

1. _____ refers to an investigative memory retrieval technique used to enhance recall in _____ situations. (Forensic hypnosis; legally relevant)
2. Persons under hypnosis are _____; those in the state of hypnosis do not become zombies. (aware of what is going on)
3. The goal of forensic hypnosis is _____ and retrieval for use in a specific civil or criminal case. (memory enhancement)
4. During the induction phase, the hypnotist _____ the witness and tests his or her responsivity to _____. (attempts to relax; suggestion)
5. The two major techniques used for memory recall in forensic hypnosis are _____ and _____. (age regression; hypermnesia)
6. The final phase, recall, occurs _____ and the subject is deinducted. (after the hypnotic session has ended)
7. Critics argue that a person undergoing hypnosis experiences a _____ to suggestion and a loss of _____ regarding cues planted by the hypnotist. (increased susceptibility; critical judgment)
8. The _____ refers to the consideration of all relevant information in determining reliability; this test was advocated by the Supreme Court in *Illinois v. Gates*. (totality of circumstances test)
9. _____ encourages the witness to do the talking while the interviewer listens. (Cognitive interviewing)
10. One of the most common sources of eyewitness error occurs when the witnesses' memories become _____ by information that they acquired _____. (contaminated; since they witnessed the event)

Exercises

1. Think about something that happened to you. This incident will be the basis for the practice interview; it can be a positive or negative experience. The interview will be concerned with obtaining information about that experience. Form interview teams of two students each. Practice the cognitive interview steps in the following exercises:
 - Practice step 1 of the cognitive method—meet and greet; 5-minute exercise.
 - Practice step 2 of the cognitive method—narrative phases; 20-minute exercise.
 - Practice step 3 of the cognitive method—extensive recall through mnemonics; 25-minute exercise.
 - Practice step 4 of the cognitive method—summary and closure; 10-minute exercise.
2. To illustrate enhancing recall through mnemonics, pair off for this brief 15-minute exercise. Identify one student as the interviewer and one as the interviewee. Let the interviewer ask the interviewee, “What was the last program you watched on TV?” The interviewer should then use step 3 of the cognitive interview method—extensive recall through mnemonics. Asking for recall from a different order and changing the perspective, the interviewer should attempt to obtain more information about the particular TV program.

True/False Questions

1. Forensic hypnosis refers to an investigative memory retrieval technique used to enhance recall in legally relevant situations.
ANS: T
2. Cognitive interviewing is a memory-jogging and retrieval tool characterized by an altered state of consciousness.
ANS: F
3. The majority of states allow hypnosis evidence to be used in court as long as it was conducted by an expert.
ANS: F
4. Stress or fear may influence the memory-encoding process.
ANS: T
5. The order of the cognitive interview steps is not important, as long as each step is covered.
ANS: F
6. A common problem when using the cognitive interviewing approach is interrupting to ask questions.
ANS: T
7. Forensic hypnosis is still a controversial evidence-gathering technique.
ANS: T

8. Cognitive interviewing is still a controversial evidence-gathering technique.
ANS: F

Multiple-Choice Questions

1. Which of the following is NOT one of the suggested guidelines for the use of forensic hypnosis by criminal-justice professionals?

- a. Hypnosis should be used in a manner consistent with legislation in your state.
- b. Hypnosis's use must be consistent with clinical and legal safeguards.
- c. A clear rationale for using hypnosis must be made prior to the session.
- d. Hypnosis should be used for all crime investigations, where permitted.

ANS: d

2. During this hypnotic phase, the hypnotist attempts to relax the witness and tests his or her response to suggestion.

- a. recall
- b. narrative
- c. induction
- d. hypermnesia

ANS: c

3. _____ is a filling in of the memory gaps to make the event more comprehensible, a fantasy that has unconsciously replaced fact in memory.

- a. Faking
- b. Confabulation
- c. Memory hardening
- d. Suggestibility

ANS: b

4. This phenomenon gives the subject increased confidence about the facts remembered during hypnosis, regardless of whether the facts are true or false.

- a. Confabulation
- b. Faking
- c. Memory hardening
- d. Suggestibility

ANS: c

5. According to this standard, scientific evidence must have gained general acceptance in the medical and psychological communities as a reliable method.

- a. Daubert
- b. Geiselman
- c. Frye
- d. Fisher

ANS: c

6. According to this more-recent standard on scientific evidence, the potential error rate is considered.

- a. Daubert
- b. Geiselman
- c. Frye
- d. Fisher

ANS: a

7. Since memory may have gaps due to encoding problems, the brain fills in with _____ memories of how things are supposed to happen.
- a. memory-hardening
 - b. scripted
 - c. faked
 - d. closure
- ANS: b
8. Which of the following problems is NOT caused by the experience of traumatic events?
- a. tunnel vision
 - b. temporary paralysis
 - c. diminished hearing of loud sounds
 - d. memory hardening
- ANS: d
9. The foundation of the cognitive interview method is:
- a. the rapport phase.
 - b. use of four mnemonics.
 - c. its reliability.
 - d. ease of use.
- ANS: b
10. Which of the following is NOT one of the requirements for recall through mnemonics?
- a. fantasy
 - b. imagination
 - c. association
 - d. location
- ANS: a
11. In this cognitive interviewing technique, the investigator assists the witness in re-creating the incident scene by thinking about the circumstances that surrounded the incident.
- a. reconstruction
 - b. reporting everything
 - c. changing the order of events
 - d. changing the perspective
- ANS: a
12. In this cognitive interviewing technique, the investigator explains that some people hold back information because they are not quite sure that the information is important.
- a. reconstruction
 - b. reporting everything
 - c. changing the order of events
 - d. changing the perspective
- ANS: b
13. The instruction for this cognitive technique may include asking the witness to start talking from a point he or she remembers most vividly.
- a. reconstruction
 - b. reporting everything
 - c. changing the order of events
 - d. changing the perspective
- ANS: c
14. This step of the cognitive interview method involves three parts: a free recall, a guided recall of the event, and clarification.
- a. step 1: meet and greet
 - b. step 2: narrative phases
 - c. step 3: extensive recall through mnemonics
 - d. step 4: summary and closure
- ANS: b

15. Rapport is established during this step of the cognitive interview.
- a. step 1: meet and greet
 - b. step 2: narrative phases
 - c. step 3: extensive recall through mnemonics
 - d. step 4: summary and closure
- ANS: a

16. An example of _____ is being concerned about the interviewees' comfort and asking about it.
- a. rapport
 - b. extensive recall
 - c. friendship
 - d. weakness
- ANS: a

17. Giving the interviewee permission to say that he or she does not know the answer when a question is asked is found in this cognitive interview step.
- a. step 1: meet and greet
 - b. step 2: narrative phases
 - c. step 3: extensive recall through mnemonics
 - d. step 4: summary and closure
- ANS: a

Chapter 6: Behavioral Interviewing Techniques

Chapter Overview

This chapter focuses on the non-verbal cues that occur when interviewing a suspect. Through neurolinguistic programming (NLP), interviewers can interpret other forms of communication and detect deceit from a suspect. Chapter 6 discusses the sensory learning methods (e.g., visual, auditory, and kinesthetic) and how each presents in an interview. The meanings of eye movements when recalling or creating an experience are also covered.

Instructor Notes

1. **Kinesic Learning**

It is estimated that about 65 percent of information is communicated non-verbally. In Week 1 students were introduced to the use of *kinesics* for building rapport. In this chapter kinesics is applied to interpret people's kinesic communications.

The first part of behavioral interviewing involves an understanding of the three learning styles that affect the way people think and therefore communicate. Learning styles that affect kinesic behavior are *visual*, *auditory*, and *kinesthetic*.

Non-verbal communication is the non-verbal statements that are made through body language and other behaviors. Since communication is a two-way process, the meaning given to non-verbal behaviors are dependent on the person who is receiving the message.

Kinesics: the scientific study of gestures, body language, and facial expressions as non-verbal communication.

Visual thinkers: Visual thinkers think in visual terms—they actually see a picture in their minds as they are thinking. These individuals are impacted by charts, graphs, and pictures. Visual thinkers make up about 60 percent of the population.

Auditory thinkers: Auditory thinkers have internal dialogues with themselves and are influenced by what they hear. These are the musicians and speakers of the world. Auditory thinkers make up about 20 percent of the population.

Kinesthetic thinkers: Kinesthetic thinkers process information emotionally; they feel what they are thinking. These individuals are more affected by emotions rather than facts. Kinesthetic thinkers make up about 15 percent of the population.

2. **Neurolinguistic Programming**

Putting together the concepts of kinesics and neurolinguistic programming, you can begin to read people through their observable behaviors, eye movements, and by listening to their choice of words to determine their learning style.

The first way to read people is by analyzing their observable behaviors. Observable behaviors are body gestures that can be evaluated during an interview to access the communication style of the individual. Start by evaluating the individual according to the learning styles. A learning style will often translate into the interviewee's preferred communication mode. This is true for all three types of learners.

Visual learners: These individuals may speak with their heads up and muscle tension appearing in the neck and shoulder areas. They may express their emotions by waiving their hands or arms near neck level when talking. As the person becomes more emotional, the hand and arm movements become quick and animated.

Auditory learners: These individuals may speak with their heads cocked slightly to one side. When the hands and arms are used during expression, they move below the shoulder level. These individuals may point to their ear when they are asked to explain something.

Kinesthetic learners: These individuals appear more relaxed through the neck and shoulders and typically the head is down. Those who express themselves through hand and arm movements will typically involve slower and more deliberate movements that are lower and closer to the stomach area.

3. **Neurolinguistic Programming**

The second way to read people is through their eye accessing cues. The standard followed here tends to be for a right-handed individual. Some people's eye movements seem to be reversed; these may be left-handed persons. Gender differences may also be observed for eye movements.

Visual learners: These individuals generally look upward, toward the interviewer's forehead, during the interview.

Auditory learners: These individuals generally look to one side or the other, toward the interviewer's ear.

Kinesthetic learners: These individuals usually look downward, toward the interviewer's chin or chest, when processing information.

4. **Observable Expression**

Observation of a subject should take place less than 8 feet from the subject in order to detect subtle changes in behavior. From that perspective, the interviewer will be able to form a baseline of expected behavior based on the perceived learning mode of the interviewee. The interviewer should look for a deviation from the normal behavior of the interviewee during the interview to detect deceit.

Body postures can indicate truthfulness or suggest deceit. Common beliefs on postures suggest that truthful postures are typically open and relaxed, while deceptive postures are rigid or slouching. When individuals are stressed, they may bite their fingernails or rub their hands together.

Body postures: Body positions make statements about individuals or send signals about the way that they think of themselves.

5. **Eye Movement**

To form a baseline determination on the individual's eye movement, watch the direction of the subject's eyes in response to visual, auditory, or kinesthetic terms used during a rapport-building phase. Solitary eye movements should not be used to form a baseline. Eye movements should be consistent with the subject's learning style when there is an absence of stress.

Visual right-handed individuals will typically look up to the right when they are visually creating an answer in their mind. They will look to their left with eyes up when there is definite recall. They look straight ahead and their eyes are defocused during probable recall.

Auditory right-handed individuals often access auditory mental representations by looking side to side when speaking or thinking about things. When their eyes are to the right they are creating auditory mental representations. Recall is indicated when their eyes move left.

Kinesthetic right-handed individuals often look down when they are talking. Eyes down and right indicate feelings or may indicate the experiencing of emotions.

6. **Sensory Verbal Communication—Mirroring**

A technique used in behavioral interviewing is *mirroring*. In mirroring, the interviewer uses the same sensory language as the interviewee to establish rapport or to facilitate communication. By using this technique, the interviewer facilitates continued communication by the interviewee by appealing to that person's sensory learning mode.

Examples of sensory victim statements can be: "I heard him coming through the door" or "I heard a noise." The interviewer responds by mirroring; for example: "I hear what you are saying."

7. **Sensory Verbal Communication—Shifting**

Shifting is a technique used in behavioral interviewing when the interviewer is attempting to gain control over the conversation by expanding the conversation through the sensory mode that the interviewee has been using to describe the incident. It is used primarily to gain new information by asking a different question.

Shifting is when the interviewer uses the same sensory language to ask a question and to move the subject into the area under investigation. Examples of sensory victim statements include: "I heard him coming through the door" or "I heard a noise." The interviewer responds by shifting; for example: "What did that sound like?"

An alternate method that can be used is called *sense shifting*. In this technique the interviewer offers an alternate mode of expression through a different sense than that previously used by the interviewee. Again, its purpose is for the interviewer to expand the conversation and to gain control over the information.

To attempt shifting the interview from one sense of relating to another sense, new terms are incorporated into the investigator's questions. For example: The victim states, "It was awful. I can still feel his hands on me." The interviewer shifts the sense by saying, "What did you see when you felt his hands?"

8. **Detecting Deceit**

No gesture, facial expression, or muscle twitch by itself means that a person is lying. The polygraph only measures arousal of emotion, not which emotion is felt. Since even the polygraph is of questionable scientific validity, many interviewers are also skeptical of behavioral indicators for detecting deceit.

If the behavioral approach is to be used, comparisons must be made between suspect's usual behavior and the behavior when under suspicion. To detect deceit, look for physiological changes that are difficult to control. Examples include changes in skin color, voice tone, speech pattern, dry mouth, cracking, or voice or changes in the breathing rate.

The use of *qualifiers* by a suspect may be for the purpose of lessening guilt, softening the image of an event, or to describe an imaginary situation. Also of note when attempting to detect deceit is the excessive use of *hedging* by the suspect.

Qualifier: A word that modifies or limits the meaning of the phrase; for example, using “it” to refer to victim or perpetrator.

Hedging: Indicates a lack of commitment to the statement. It involves stuttering and the use of words and phrases such as “I think ...,” “uh,” and “ya know”

Short-Answer Questions

1. Define *neurolinguistic programming* and *neurocommunication* through the facial coding system. Briefly state their implications for interviewing.

Neurolinguistic programming refers to the interconnectedness among primary forms of human communication: thinking, speaking (verbally and non-verbally), and patterns of behavior.

Neurocommunication through facial coding is a comprehensive anatomically based method for measuring all discernable facial movement. The five universal expressions controlled by the autonomic nervous system are anger, fear, disgust, sadness, and enjoyment.

Knowledge of these processes will improve interviewing skills through behavior awareness and increase the detection of deceit. Further, knowledge of sense behaviors should raise the level of proficiency in accurate statement-taking.

2. What are the three *primary learning methods*? What is their role in *mirroring*? How does mirroring differ from *modeling*?

Visual, auditory, and kinesthetic properties are the three *primary learning methods*. Interviewers will *mirror* the same sensory language used by the subject in an attempt to gain rapport. Another use is for the purpose of shifting. This occurs when the interviewer has discovered the preferred sense of communication (visual, auditory, or kinesthetic) and uses the terms to move into the area under investigation.

Modeling is another technique used to develop rapport. Unlike mirroring, it involves mirroring behavior, not methods of verbal communication. For instance, instead of focusing on the language of the interviewee, the interviewer will adopt similar sitting positions or standing positions.

3. What techniques should you use for each type of sensory learner?

Visual learner (most common): Interviewers should mimic their language: “I *see* what you mean” and “*Look* at it this way.” Visual learners often communicate with their hands and arms, which can become quick and animated. The interviewer’s rate of speaking should match the pace of the visual communicator.

Auditory learner: Auditory learners primarily rely on their sense of hearing and will speak moderately and rhythmically. The interviewer should use similar language to reach this person: “I *hear* what you are saying.” The person’s hands and arms will move below the shoulder while pointing to the ear.

Kinesthetic learner: Kinesthetic learners prefer feeling terms such as “I know how you *feel*,” “That must have been *painful*,” and “*Tell* me more.” Their gaze is frequently down, and their breathing is slow and deep. Interviewers should go slow and remain calm to reach these people.

4. What is the significance of *facial expressions*? What cautions should interviewers take in regard to facial expressions during an interview?

Facial expressions are movements that emphasize speech and may not be typical of the individual. Interviewers should not solely rely on facial clues, but should also couple them with cues from the voice, words, or body language of the interviewee. Some examples of deceit include the following:

- When the *gaze is averted*. Downward may signal sadness, and down or away may indicate shame or guilt; the person may look away due to disgust.
- *Blinking* indicates emotional arousal. This can be due to excitement, anger, or fear. If an interviewee hears something he or she disagrees with, eyelids tend to close longer than a normal blink.
- Pupils *dilate* when people are emotionally aroused.
- Face *blushing* could indicate embarrassment or shame.
- The face turning *red* suggests anger.

5. Provide examples of *qualifiers*, *hedging*, *emblems*, and *manipulators*?

Qualifiers: Words that modify or limit the general meaning of a phrase (e.g., using the word “it” to describe the assailant).

Hedging: A failure to commit to a statement (e.g., using the words “I think”).

Emblems: Gestures that are widely understood in the culture but that otherwise have little or no meaning (e.g., waving your hand to mean “hello”).

Manipulators: Poor indicators that express discomfort or relaxation and vary according to the stakes involved (e.g., those who are deceitful may bite their lip to feign concern).

6. What is the greatest danger when attempting to detect deceit, and how can you prevent it? The greatest danger is disbelieving the truth. The following suggestions may assist in detecting deception:

- Absence of a sign of deceit is not evidence of the truth.
- Comparisons must be made of the suspect’s usual behavior and how he or she acts when under suspicion.
- It is possible that a sign of emotion is not a clue to deceit but rather an indication of how a truthful person feels about being suspected of lying.
- Discount the sign of an emotion as a clue to deceit if the suspect’s personality would make the suspect likely to have such a feeling even if he or she were being truthful.
- Remember that honest people can fail a polygraph test. This test measures the arousal of emotion, not which emotion is felt.

7. Caution had been advised on using behavioral indicators to detect deceit when the interviewee is not of the same culture or gender as the interviewer. Describe two additional concerns that center on the misinterpretation of behaviors.

An *Othello Error*, for example, is a term that refers to the failure to recognize that some truthful people become emotional when suspected of lying. An innocent person may show fear, but it may be the fear of being falsely accused. Such a person may feel and exhibit an emotion about being suspected of lying. Discount the sign of such an emotion as a clue to deceit if the suspect is likely to have the emotion while being truthful.

The *Brokaw Hazard* refers to an opposite situation—the failure to realize that natural liars and psychopaths have the ability to inhibit facial signs of their true feelings. The failure to

recognize behavior indicators does not mean that someone is telling the truth. Individual differences may account for the absence of a clue to deceit.

Fill-In Questions

1. _____ refers to the interconnectedness of primary forms of human communication: thinking, speaking, and patterns of behavior. (Neurolinguistic programming)
2. Persons who use the _____ sensory learning method think in verbal terms. When asked a question, pictures of thoughts go through their minds. (visual)
3. A small percentage of the population has a _____ thought process. They are emotional thinkers, and their language will contain “feeling” terms. (kinesthetic)
4. When the _____ is recalling an event, his or her eyes will move up and to his or her left. (visual right-handed person)
5. The _____ keeps eyes level to the right or left of the face when responding to questions. (auditory right-handed person)
6. The _____ looks down and to the right or usually has more skin color when responding to questions. (kinesthetic right-handed person)
7. Facial clues should be confirmed by clues from the _____, _____, or _____. (voice; words; body)
8. Narrowing of the lips indicates _____. (anger)
9. _____ is indicated when the corners of the lips turn down; this expression is reliable and difficult to fake. (Sadness)
10. It is better to focus on _____ changes instead of _____ ones when trying to detect deceit. (physiological; emotional)

Exercises

1. The class breaks into pairs for this exercise on eye-accessing cues. The instructor reads the following questions while one person in each pair answers and the other watches his or her eye movements. Switch roles every other question.

How many windows are in the front of the house where you live permanently (not at school)?

Movement of the eyes up and left represents a visual remembering.

Describe your mother. Up and left represents a visual remembering.

Which one of your friends has the most annoying voice? To the side and left represents an auditory recall.

What is the name of your favorite song? To the side and left represents an auditory recall.

What was the color of your first car? Up and left indicates a visual remembering.

Imagine what your best friend would look like with purple hair. Up and right represents a visual construct.

2. Practice mirroring. Pair up with a member of the class for this 10-minute exercise. Sitting across from and facing one another, one of the students describes what he or she did since getting up that day. During this “interview,” the listening partner should match the interviewee’s posture and gesture in a subtle way that does not appear to mimic him or her.

3. _____ occurs when the interviewer reflects the same behavior as the interviewee to establish rapport.

- a. Modeling
- b. Shifting
- c. Mirroring
- d. Pacing

ANS: a

4. Another use of sensory communication is for the purpose of _____, using sensory language to move that person into the area under investigation.

- a. modeling
- b. shifting
- c. mirroring
- d. pacing

ANS: b

5. Which of the following is NOT a category of individual learning styles discussed in behavioral communication theory?

- a. visual learners
- b. disabled learners
- c. auditory learners
- d. physical (kinesic) learners

ANS: b

6. The kinesic category most frequently referred to for interviewing and interrogation is:

- a. emblems.
- b. illustrators.
- c. affect displays.
- d. adaptors.

ANS: a

7. Non-verbal gestures that have a verbal counterpart and are widely understood within a given culture are:

- a. emblems.
- b. illustrators.
- c. affect displays.
- d. adaptors.

ANS: a

8. The idea that behavior originates from the five senses and is communicated as psychological reactions to ideas and events is termed:

- a. programming.
- b. neurolinguistic.
- c. kinesics.
- d. sense shifting.

ANS: b

9. Non-verbal communication is affected by:

- a. culture.
- b. gender.
- c. age.
- d. all of the above.

ANS: d

10. _____ are physiologically based emotions that occur spontaneously.

- a. Facial expressions
- b. Body postures
- c. Both a and b
- d. None of the above

ANS: c

11. _____ may indicate the preferred sensory mode of the suspect.

- a. Body posture
- b. Eye movement
- c. Facial coding
- d. None of the above

ANS: b

12. “Shifty eyes” are an example of _____, which are unreliable indicators of deceit.

- a. hedgers
- b. manipulators
- c. qualifiers
- d. processors

ANS: b

13. Words that modify or limit the general meaning of a phrase are called:

- a. hedgers.
- b. manipulators.
- c. qualifiers.
- d. processors.

ANS: c

14. When a person increases the use of fillers such as “uh” or “ya know” during an interview, it is believed that this indicates a lack of commitment to the statement. This is called:

- a. hedging.
- b. manipulating.
- c. qualifying.
- d. processing.

ANS: a

Part III: Interviewing Special Populations

Instructor Tips

1. Assign students the following journal article to read and report on: Hayes, B.K., and Delamonthe, K. (1997). Cognitive interviewing procedures and suggestibility in children's recall. *Journal of Applied Psychology* 82(4), 562–577.
2. To understand more about interviewing elders, assign the following journal article to read and report on: Ramsey-Klawnsnik, H. (1993). Interviewing elders for suspected sexual abuse: guidelines and techniques. *Journal of Elder Abuse and Neglect* 5(1), 5–17.

Additional Exercises for Chapters 7–9

1. Interviewing Children

Introduction: This assignment compares the forensic and cognitive approaches to interviewing children that you have read about in Chapter 7 of the textbook.

Assignment: Refer to Chapter 7 in your textbook and look at the information under the following two headings: Forensic Interviewing Techniques and Cognitive Interviewing Techniques. After fully familiarizing yourself with these two techniques, perform the following tasks:

Briefly outline each approach to interviewing children. This can be done in two columns, side by side. Compare and contrast the approaches and specifically state in your analysis why step 2 of the cognitive approach is the most important step. Submit your report to your instructor in a Word document not more than two pages long (approximately 300 words).

2. The Interview Report

Introduction: This assignment gets the student ready to look for the information needed to prepare an interview as report. Discuss whether the student/interviewer would write in the first person and the extent of paraphrasing that would be acceptable. Write on the board all required components for the student report of an interview as suggested below:

1. Interviewer—name, agency, rank
2. Time and place—date, time, place of the interview
3. Present—names of all persons present during the interview
4. Interviewee—name, address, telephone number, age, gender
5. Reason—reason for the interview
6. Statement—statement of the interview, using whenever possible the words of the witness

Assignment: Write a narrative report on an interview that is real or imagined. The report must include at all required components listed on the board in addition to the information provided during the interview. Submit your report to your instructor in a Word document not more than two pages long (approximately 300 words).

3. **Interrogating Special Populations**

Introduction: This assignment evaluates the practice of interrogating persons with physical, cognitive, and/or communication impairments.

Assignment: Read the document “A Police Officer’s Guide When in Contact with People Who Have Mental Retardation.” It is available in a PDF version at www.thearc.org/publications.

Consider these questions: How do you think interrogation of an individual who has mental retardation can affect the process? What special care would you take when interrogating a person with mental retardation? Submit your report to your instructor in a Word document not more than two pages long (approximately 300 words).

4. **The Field Evaluation**

Introduction: The purpose of conducting a field evaluation is to determine an appropriate response to the situation. The two methods of evaluation used to make an assessment in the field based on distance are distant field evaluation and detailed field evaluation.

Assignment: Explain the distant field evaluation and the detailed field evaluation methods and provide reasons why these evaluations are beneficial to interviewers. Also, list questions that would be helpful when making a field evaluation of a person suspected of having a disability. Submit your response to your instructor in a Word document not more than 2 pages long (approximately 300 words).

Additional Instructor Resources

1. The Administration for Children and Families (ACF) is a federal agency that funds state, territory, local, and tribal organizations to provide family assistance and numerous programs for children. The ACF’s Web site provides an abundance of information on issues concerning children and persons with disabilities. See <http://www.acf.hhs.gov/index.html>.

2. The ARC Web site contains valuable information on criminal justice and persons with disabilities. Visit <http://www.thearc.org/criminaljustice.html>. In particular, suggest that students visit the page containing The Police Officers Guide: <http://thearc.org/ada/police.html>. This helpful page includes additional information on communicating with persons with disabilities.

3. Use the Snowden Case to introduce the controversy surrounding child interviews. The case summary and optional video clips can be found online at the following address: <http://www.pbs.org/wgbh/pages/frontline/shows/terror/cases/snowden.html>.

Chapter 7: Interviewing Children

Chapter Overview

This chapter provides some insight to the criminal-justice professional in the process of interviewing children. Common preliminary questions are considered and recommendations made for a successful interview. In addition, this chapter guides the interviewer in collecting evidence that can be used in court. Two types of interviewing styles are highlighted: the forensic and cognitive interviews. The chapter concludes with an overview of the developmental stages of a child, which can provide insight to the interviewer who is talking with a child.

Instructor Notes

1. Factors of Significance for a Child Interview

Children are routinely interviewed as victims, witnesses, and suspects in crime. Approximately 3 million reports of child abuse and neglect are filed each year. From these reports, numerous individuals will be interviewed to determine if a crime was committed.

Obtaining statements from children is fraught with controversy. Criminal justice has experienced a period of time when children reports were not considered reliable. The 1980s ushered in a new era with the discovery of child battering where children were presumed never to lie about victimization.

Where does that bring us? It brings us to a time where interviewing children requires the acknowledgement that there will be limitations and special considerations. The primary limitation on the information an interviewer can expect is the limitations on reporting by the *age* of the child. The child's developmental stage limits the extent of interviewing and the quality of information possible.

Infancy (the first 2 years): Rely on medical documentation.

Early childhood (ages 2 to 6): Characterized by short attention span and difficulty with the concepts of time and space. Only in rare instances should the child be interviewed more than one-half hour.

Middle childhood (ages 7 to 12): In this stage, language is well-developed, play remains the primary expression, emotional language is possible, and the child can distinguish fiction from reality.

2. Initial Considerations for Child Interviews

Assessing the present and future risk of harm to a child is a legal requirement in all states. All states and the federal government mandate that professional report suspected abuse or neglect of a child. The agency that receives these reports varies by state.

Boys and girls are victimized almost equally. Though some variation can be expected, boys are the more frequent victims of physical abuse, and girls are more often the victims of sexual abuse. Both men and women abuse children, and women are the most frequent killers of infants.

Step 1 of the interview that involves children is *risk assessment*. The interviewer must be prepared to make this assessment during the interview with the knowledge of the categories of harm that should be explored:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect
- Self-harm
- Domestic violence within the home
- Sexual exploitation

3. **Next Step in the Child-Interview Process**

Step 2 of the child interview concerns the *models for evaluating abuse*. Three primary models are common, each with a different philosophy on interviewing children. Choice of evaluation model is based on the goals of the interview and should be consistent with the needs of the investigation.

The criminal investigator must have active participation in all child interviews. If the interview is conducted by a civilian, the investigator should witness the interview through a two-way mirror or view a videotape of the entire interview to ensure that it was conducted in a manner consistent with the rules of evidence. The parent-child interaction model should not be used as the basis for a criminal complaint.

Models for evaluating abuse include:

- Child interview model
- Parent-child interaction model
- Multidisciplinary team approach

4. **Forensic Interviewing Technique**

The first approach to interviewing children is the *forensic interviewing technique*. As its name implies, the goal of this approach is to gather evidence for use in court. This approach has three phases, which are conducted prior to the interview.

Phase I of the forensic interviewing technique is referred to as *caretaker instructions*. A release to interview the child should be signed by the guardian or parent prior to the interview. Parents or caretakers should be at ease about the process; however, they should not be allowed into the interviewing room.

Phase II is referred to as the *evaluation phase*. This involves a pre-questioning evaluation by using the preliminary considerations checklist that was explained in the previous topic.

Phase III is referred to as *prepare the child*. This is an important step that uses the *comprehensive monitoring (CM) preparation model*.

Forensic interviewing technique: Uses a multidisciplinary model of investigation and traditional structured questioning best-suited to the age and developmental level of the child.

CM preparation model: A practice session with the child interviewee conducted prior to the interview by a non-interviewing person. Questions for the interview should not be asked at this time.

5. Competency and Credibility

Phase V is where you collect the evidence from the child through the interview. *Competency* and *credibility* are legal issues of concern when the child provides verbal evidence. These are addressed through questioning using the forensic interviewing technique, which relies on strict adherence to rules of evidence and non-leading questioning. The interviewer must be genuine and sincere when questioning a child, since children have an uncanny way of knowing if you are trying to con them and can get distant or just uncomfortable.

In an interview concerning victimization, the interviewer should not suggest to the child what was done or by whom. Allow only the interviewee to suggest names, people, or places. Questions are *general* to prompt the statement. Don't suggest that the situation was "bad." Children may consider this to mean that they are bad, and this could cause them not to tell you what happened. When the assault was sexual, the problem may be that it "felt good." There is no need to categorize in adult terms what occurred.

Investigators know that establishing the time and place are critical to a criminal investigation, yet many children lack the concept of time and are unable to give dates that are associated with events. "On or about" is frequently used in complaints based on child statements. The event can be associated with a *time of year* and *time of day*.

General: Example: "I understand that something may have happened to you. Can you explain what that was?"

Time of year: Attempt to tie the incident to an event in the child's life. Examples: "Was it near Christmas?" "Someone's birthday?" "Were you going to school?" "Was it hot or cold outside?"

Time of day: Tie the incident into the time of day according to the child's dress. Examples: "What were you wearing?" "Did you have on your pajamas, or were you dressed?"

6. Cognitive Child Interview Mnemonics

Step 2 of the cognitive-interviewing method involves techniques designed to elicit from the child as complete a narrative account of the crime as possible. It includes the interviewer guidelines for the *reconstruct-the-circumstances mnemonic* and the *report-everything mnemonic*. This step is the most important. In the most recent version of cognitive interviewing, these are the only two mnemonics used. During this narrative phase, the child should not be interrupted.

Be complete/report everything: Instruct the child to recount everything that happened, from the beginning to the middle to the end. "Tell everything you remember, even little parts that you don't think are very important." "Tell me everything that happened."

Reconstruct circumstances: To keep the child grounded in reality and minimize fantasy, the interviewer must avoid such terms as "pretend" or "imagine." Instead, instruct the child to "Picture that time when ... as if you were there right now. Think about what it was like there. Tell me out loud. Were there any smells there? Was it dark or light? Picture any other people who were there. What things were there? How were you feeling when you were there? Who else was there?"

Step 3 is where the interviewer asks specific questions and clarifies what the interviewee has stated through the narrative. Allow the child to completely answer one question before asking another. There are two versions of the child cognitive-interviewing method.

The first version involves the use of additional memory-jogging techniques: the *change-the-order mnemonic* and the *change-the-perspective mnemonic*. The changing-the-perspective technique should only be used after the child appears to have exhausted his or her memory of the

event. An alternative approach suggests traditional questioning. Simplify questions asked by avoiding *three- or four-syllable words* and *multiword verbs*. Ensure a non-judgmental interview through a matter-of-fact tone of voice.

Do not reward children for giving information; rather, encourage them by stating that you understand. Uncooperative children should not be bullied, bribed, contradicted, or threatened.

Chang-the-order mnemonic: The child is asked to recall the events in backward order, starting at the end, then the middle, and then the beginning. After each response, the child is prompted with a question about what happened before that.

Change-the-perspective mnemonic: The child is asked to recall the incident through the eyes of someone else or an inanimate object such as a stuffed animal or doll.

Examples of three- or four-syllable words: “identify” or “perpetrator”

Examples of multiword verbs: “might it have been the case that...”

Short-Answer Questions

1. What are the considerations in the common preliminary checklist?

The considerations in the common preliminary checklist include the following:

- Determine the reason for questioning.
- Determine the purpose of the questioning.
- Identify the population.
- Identify the interviewer.

2. Name and describe the three models for evaluating abuse.

Child interview model: Relies on the interview with the child to determine if abuse has occurred. The inherent assumption in this model is that children are a reliable resource when giving their account of sexual abuse and that they rarely make false allegations.

Parent-child interaction model: Based on expected behaviors between the offending and non-offending parent and their offspring. This is a controversial model among clinicians and should not be used as the basis for criminal complaints.

Comprehensive evaluation: A multidisciplinary team approach in which the team consists of physicians, social workers, psychologists, lawyers, and the police. Medical exams of the alleged victim and psychological testing may be used. This is the most expensive and time-consuming of the three approaches.

3. In regard to obtaining evidence, what are the answers an interviewer must know in order to proceed with the criminal process?

In order to proceed, the interviewer must know answers to the following questions:

- What, if any, crime occurred?
- Who committed the crime?
- Where did the crime occur?
- When did the crime occur?
- Against whom was the crime perpetrated?
- How was the crime perpetrated?

4. Compare and contrast the *forensic* and *cognitive approaches* to interviewing.

Forensic interviews are used when primary victimization is suspected. This type of interviewing is a traditional, structured format that requires planning and precision. *Cognitive interviewing* has gained credibility when interviewing younger children who tend to give less complete answers.

Caretaker instructions phase: In forensic and cognitive interviews, the caretaker is advised to answer questions the child may have about the interview but not to prompt the child for more information. Before the interview, the guardian signs a release to conduct the interview.

Evaluation phase: Using the common preliminary considerations checklist, an evaluation of the upcoming interview is conducted. This will inform the interviewer of the approximate length and approach needed.

Establish rapport: This is a similar process for both forensic and cognitive interviews. The interviewer should greet the child in a relaxed and comfortable way, tell the child that he or she has been waiting for the child, and ask the guardian for permission to walk the child down the hall to the interview room. Take time to make sure the child is comfortable, and make sure there are crayons and paper for the child to use, and allow the child to talk in an unguarded manner.

Prepare the child: A person other than the interviewer will prepare the child. This is a practice session that will assist the child in identifying information that is not understood and improving his or her ability to tell the interviewer what he or she doesn't understand. In a forensic interview, the child will: a) practice identifying instances of non-comprehension, b) practice responding to verbalizations that indicate lack of understanding, and c) increase his or her awareness of the negative consequences of responding to questions not fully understood. In the cognitive preparation phase, the child is informed of the possible questions in the upcoming interview and encouraged to be truthful if he or she doesn't know an answer or understand a question. Further, the child is given permission not to answer questions and is encouraged to ask the interviewer questions if something is not understood. After this phase, the child also engages in the "practice interview" and the "practice cognitive interview" to further help the child to reconstruct the events that took place.

Conduct the interview: In forensic interviewing, make sure the child knows the difference between the truth and a lie. The interviewer should use language that is appropriate for the age of the child. Language that is accusatory should be avoided. Cognitive interviews are focused on a reconstruction of the events that occurred, and the child is asked to report everything that occurred, even things that might not seem important.

5. What are some of the concerns that an interviewer should be aware of regarding the child as reporter?

Accuracy: Inaccurate responses occur when children block out events; therefore, the interviewer should know any history that might exist of prior victimization before interviewing. Inaccurate responses also occur if children do not understand the question, but children will rarely let the interviewer know when this is the case. Last, like adults, children may find it difficult to disclose events that they find embarrassing or humiliating.

Memory: The best result for a pristine memory recall that has not been coached is to keep quiet and let the child tell his or her story.

Fantasy: To minimize fantasy, avoid using terms such as "pretend" and "imagine."

6. What are the types of abuse that can occur to a child?
 - Emotional
 - Psychological
 - Physical injury
 - Neglect
 - Sexual abuse
 - Secondary abuse (e.g., witnessing domestic violence and homicide of a parent or residing in a violent home)

7. Briefly discuss the developmental stages of childhood.

Infancy: In this stage, language consists of utterances, crying, and gestures. All caretakers should be questioned regardless of their status as a suspect. A physical examination by a medical professional is required to provide evidence of a crime.

Early childhood (ages 2–6): These children will have an active imagination that is grounded in reality. There is a need to clarify what they heard, saw, or felt in order to determine the origin of their experiences. At this age, children have difficulty expressing time and space. Extended questioning should not be expected.

Middle childhood (ages 7–12): These children are more specific when communicating their experiences. They have a strong need for trust and may require additional attention and support than other ages.

8. What are the four mnemonics used in the cognitive approach to the interview?
 - Reconstruct the circumstances
 - Report everything
 - Change the order
 - Change the perspective

Fill-In Questions

1. The three approaches recognized by the American Professional Society on the Abuse of children are _____, _____, and _____.
(child interview model; parent-child interaction; comprehensive evaluation)
2. A _____ will assess the present and future risk of harm to a child. (risk assessment)
3. How many states have legislation that requires certain professionals to report when a child is at risk due to suspected child abuse or neglect? _____ (50 states and the District of Columbia)
4. Evidence that is sought through a police investigation of child abuse includes _____, _____, and _____. (testimonial evidence from the victim; physical evidence; testimonial evidence from the suspect)
5. The _____ is conducted when primary victimization is suspected. (forensic approach)
6. The two categories of secondary abuse are _____ and _____. (domestic violence; witnessing the homicide of a parent)

7. _____ and the use of _____ are helpful tools when interviewing a child under the age of 12. (Drawing; anatomically correct dolls)
8. During _____ children communicate with utterances, crying, and gestures. (infancy)
9. Children between ages _____ usually need to gain your trust and need more attention and support to compensate for the violation that they suffered. (7 and 12)

Exercises

1. Practice your cognitive interviewing techniques. Divide into pairs. One student will be the interviewer and the other will be the interviewee.
The interviewer is to find out as much detail as possible about the interviewee's last experience in taking an exam. Instruct the interviewee on the *report every detail approach*. Take 5 minutes for this mnemonic exercise.
The interviewers are asked to recall what they learned about their partner's last exam. Take 5 minutes for this discussion.
Continue with the interview. Instruct the interviewee about using the technique to *reconstruct the circumstances* surrounding his or her exam experience. For example, ask him or her to describe the surroundings, room, furniture, and so on. The interviewer should not interrupt his or her partner. Take 5 minutes for this mnemonic exercise.
Share any new information with the class that came out of this approach. Take 5 minutes for this discussion.
Continue with the interview. Ask the interviewee to recall the story in reverse order and then from the perspective of someone else who was there at the time. Take 10 minutes for this mnemonic exercise.
Discuss with the class any new information you learned about the exam.

True/False Questions

1. Forensic child interviews are used when primary victimization is suspected.
ANS: T
2. Prior to interviewing a child, the guardian should be asked to sign a release to conduct the interview.
ANS: T
3. The interviewer is the best option to prepare a child prior to an actual interview.
ANS: F
4. The Comprehensive Monitoring Preparation Model is a practice session with the child interviewee prior to the interview.
ANS: T

5. The practice interview with a child is not recommended for the cognitive approach.

ANS: F

6. Establishing rapport with a child is suggested for both the forensic and cognitive approaches.

ANS: T

7. Allowing the child to become comfortable with the use of an anatomical doll includes learning the vocabulary that the interviewee uses for body parts.

ANS: T

8. When setting up an interview room for a child, it is beneficial to include sufficient toys to keep the child occupied.

ANS: F

9. A multidisciplinary taskforce for child interviewing should not include a police officer.

ANS: F

10. The interview of a child may change in scope and purpose if it is learned that the victim is also an offender.

ANS: T

11. Police officers should be active members of investigative interviewing of a child.

ANS: T

Multiple-Choice Questions

1. This model for evaluating child abuse relies on the interview with the child to determine if abuse has occurred. The inherent assumption in this model is that children are a reliable resource when giving their account of sexual abuse and that they rarely make false allegations.

- a. Child Interview Model
- b. Parent-Child Interaction Model
- c. Multidisciplinary Team Approach
- d. Law Enforcement Model

ANS: a

2. This model for evaluating child abuse is based on expected behaviors between the offending and non-offending parent and their offspring. This is a controversial model among clinicians and should not be used as the basis for criminal complaints.

- a. Child Interview Model
- b. Parent-Child Interaction Model
- c. Multidisciplinary Team Approach
- d. Law Enforcement Model

ANS: b

3. This approach to evaluating child abuse consists of physicians, social workers, psychologists, lawyers, and police. Medical exams of the alleged victim and psychological testing may be used with this approach. This is the most expensive and time-consuming of the three approaches.

- a. Child Interview Model
- b. Parent-Child Interaction Model
- c. Multidisciplinary Team Approach
- d. Law Enforcement Approach

ANS: c

4. In regard to obtaining evidence, what is the most important question a criminal-justice interviewer must ask in order to proceed with the criminal process?

- a. "What happened?"
- b. "Did something happen?"
- c. "When did the crime occur?"
- d. "Where were the parents at the time of the crime?"

ANS: a

5. Which of the following is NOT one of the preliminary considerations for a child interview?

- a. Determine the length of the interview.
- b. Examine the population limitations.
- c. Obtain an offender description.
- d. Determine who will conduct the interview.

ANS: c

6. Which of the following is NOT one of the three concerns that an interviewer should be aware of regarding the child as reporter?

- a. accuracy
- b. exact dates of offenses
- c. fantasy
- d. memory

ANS: b

7. The primary method of gaining evidence with this age group is through a physical examination of the child rather than an interview.

- a. infancy
- b. early childhood
- c. middle childhood
- d. adolescence

ANS: a

8. This age group can be expected to have difficulty expressing time and space.

- a. infancy
- b. early childhood
- c. middle childhood
- d. adolescence

ANS: b

9. This age group can be expected to need strong support and a development of trust.

- a. infancy
- b. early childhood
- c. middle childhood
- d. adolescence

ANS: c

10. The most recent version of the child cognitive interview uses only these two most important mnemonics:

- a. backward-order recall and alphabet search.
- b. reconstruct the circumstances and be complete, report everything.
- c. new perspective and conversation.
- d. be complete, report everything and alphabet search.

ANS: b

11. When a primary victimization of the child is suspected, this method is the suggested interview type.

- a. the cognitive interview
- b. the revised cognitive interview
- c. field assessment
- d. the forensic child interview

ANS: d

12. Which of the following are the two categories of secondary abuse to a child?

- a. witnessing domestic violence and witnessing the homicide of a parent
- b. domestic violence of a parent and primary victimization
- c. animal abuse and witnessing the homicide of a parent
- d. animal abuse and primary victimization

ANS: a

13. Which of the following are the tools used when interviewing a child under the age of 12?

- a. drawing and interviewing the child
- b. interviewing the child and interviewing the parents
- c. drawing and the use of anatomically correct dolls
- d. the use of anatomically correct dolls and interviewing the parent

ANS: c

14. When responding to a complaint of child abuse or neglect in the field, which of the following is done to determine if criminal action should be sought?

- a. a neutral assessment
- b. a risk assessment
- c. a field assessment
- d. a forensic assessment

ANS: c

15. The phase of establishing rapport in a child interview is specifically recommended for which of the following?

- a. a forensic interview
- b. a practice interview
- c. a cognitive interview
- d. both a and c

ANS: d

16. Typical steps in the child cognitive interview include:

- a. establishing rapport.
- b. reconstruction.
- c. change the order.
- d. all of the above.

ANS: d

17. Which of the following is an example of passive maltreatment of a child?

- a. physical abuse
- b. denial or the lack of medical care
- c. witnessing domestic abuse
- d. sexual abuse

ANS: b

18. Which of the following is NOT a typical member of a multidisciplinary task force that investigates crimes against children?

- a. police officer
- b. prosecuting attorney
- c. non-offending parent
- d. All of the above are typical members.

ANS: c

19. Which of the following is NOT typical of the information to be determined from a child interview?

- a. the child's developmental level
- b. the type of weapon or implement used and its current location
- c. the educational level of the offender
- d. All of the above are typical of the information to be gathered from a child interview.

ANS: c

Chapter 8: Interviewing the Elderly

Chapter Overview

As the elderly population continues to increase, this chapter is timely and extremely important to the interviewer. Between 1 and 2 million elderly Americans are injured, exploited, or mistreated each year. This chapter will introduce the reader to the issue of elder abuse and how to approach this population as perpetrators and victims. The reader will gain an understating of how to question the elderly victim through the use of a pre-interview using the conversation-observing approach. Suggested questions are offered to help guide the interviewer through this process. Steps covering how to conduct the interview are also offered to the reader.

This chapter will also outline the types of crimes committed against elders, such as physical abuse, sexual abuse, emotional/psychological abuse, neglect, self-neglect, abandonment, and financial exploitation. Techniques used to interview elderly victims are outlined and discussed. In this discussion, interviewing limitations such as cognitive impairment, hearing loss, and mental disability are highlighted to offer insight into the special issues of interviewing this specific population.

Instructor Notes

1. Questioning the Elderly Person

One aspect of interviewing an elderly person that makes it different from other kinds of interviews is the inclusion of the *pre-interview* step in the interview process. The intent of the pre-interview is to make an assessment of the elderly person, and it should be conducted before the actual interview. Through the assessment, the interviewer determines:

- If the elder has difficulty answering simple questions
- If the elder has difficulty seeing or hearing
- If he or she needs ancillary devices such as a hearing aid or eye glasses
- If the elder is physically self-sufficient
- If the elder is financially self-sufficient

The *conversation-observing evaluation* is an approach used to make an assessment during the pre-interview. This evaluation is performed to determine if the elder has any vulnerability or impairment that might affect the interview. Here are some tips for conducting a successful pre-interview:

- Be open-minded.
- Speak with elderly people at a place where they are comfortable, typically their own home.
- Mention that this is a “friendly visit” for the purpose of observing.
- Sit face-to-face with the elder.
- Do not take notes without permission.
- Introduce yourself and generally state your purpose.
- Ask for their full name.
- Refer to elderly people by their title.

2. **Physical Limitations**

Typical physical limitations that may impact an interview of the elderly person include visual and hearing loss. Don't be afraid to ask the person if he or she needs a hearing aid or glasses. It is not uncommon for elderly people to need vision or hearing aids, but they may not be wearing them. Overcome physical limitation during the interview by:

- Speaking face-to-face
- Not smoking, chewing gum, or covering your mouth while talking
- Not speak too quickly
- Establishing eye contact so that the elderly person can read your lips if necessary

3. **Cognitive Limitations—Source Confusion**

There is no evidence of an age-related vulnerability to misinformation; however, contamination is a problem in all age groups. That means that the interviewer must be careful not to introduce information about the event through leading questioning or improper identification techniques.

It does appear that the elderly are more susceptible to *source confusion* than younger adults. Additionally, elderly persons are likely to act more confident about their wrong choices, regardless of their source misinformation.

Source confusion: Difficulty distinguishing what you have witnessed yourself from what you may have heard from someone else, or a problem identifying the exact source of the information.

4. **Cognitive Limitations—Recall**

How much recall are elderly people capable of? You can expect that it will take elderly people longer than usual to answer questions. The key is to have patience. Do not rush or suggest answers to elderly people. Instead, give them the time that they need to comfortably recall.

There is a significant difference in free recall between young adults (age 21) and elders (age 70). Older adult witnesses provide fewer descriptions of the perpetrator (physical, clothing, etc.)

The literature is mixed on the value of using memory-jogging techniques with elderly interviewees. In some cases it is helpful and not in others. It is worth trying the use of mnemonics if the interviewee is having extreme difficulty in answering questions. Try the mnemonic techniques from the cognitive interviewing method.

Older adults (age 60–80) are more likely to “false alarm” to a new face. In other words, they are more likely to falsely recognize a face they have not seen previously.

In the eyewitness identification setting, elderly persons are more prone to making false choices. *Eyewitness identification of a suspect based on the elderly person must be validated through additional evidence.*

5. **Crimes Perpetrated by Elders**

In contrast to the prevailing belief that the elderly commit less crime is a growing realization that domestic abuse affects the elderly in alarming numbers. Estimates suggest that as many as 5 million Americans over age 50 are currently in abusive relationships. Approximately one-third of domestic abusers against the elderly are persons aged 60 and above.

This hidden epidemic occurs because the elderly population is secretive about this problem. Interviewers should look for injuries that do not match the explanation of how they occurred and a hint given that the elderly person is afraid, missed appointments, or delays in seeking medical help when needed.

6. **Mandated Reporting**

All 50 states, the District of Columbia, and some U.S. territories require professionals to report suspected abuse or neglect of the elderly. The majority of reports concerning elder abuse are made to adult protective services rather than to the police. Look to the laws in your state for the reporting requirements.

Multidisciplinary teams represent an example of current approaches to the crimes affecting seniors. Investigations should be coordinated with adult protective services or the ombudsman whenever possible to establish cooperative models of intervention.

Short-Answer Questions

1. What is a *pre-interview*, and why is it used?

The *pre-interview* is used to identify possible limitations of the interviewee and the nature of the offense through the conversation-observing approach. During this time with the victim the officer should refrain from taking notes and keep the conversation at a more casual level. The victim should feel that the officer is there for a visit. The officer is evaluating the ability of the interviewee to communicate. Further, information regarding living conditions and relationships is important to document. Some suggested questions follow:

- How are you feeling?
- How old are you?
- How long have you lived here?
- Do you live here by yourself?
- Do you live with your husband (wife)?
- Excuse me for prying, but may I ask if you receive a retirement pension or social security? Have you made any financial arrangements with someone to take care of you?
- Is there anyone that helps you out with daily living? Do you pay this person? Do they ask for money or gifts?

2. What is the most common form of violence against the elderly?

The majority of violence against elders is domestic abuse. As the population ages, it is expected that this crime will increase. Like their younger counterparts, elder spouses and intimates are among those likely to perpetrate domestic violence on their elderly partners. If the criminal-justice system does not prepare to address this population, nearly one-quarter of the population will be without criminal-justice intervention.

3. What are the categories of elder abuse?

Under the Amendments to the Older Americans Act, the Government described elder abuse as domestic abuse and institutional abuse. Other crimes such as physical, sexual, and emotional/psychological abuse may occur within these two categories. In addition, self-neglect, abandonment, and financial exploitation are also included within these same categories. In regard to financial abuse, two categories have been identified: fraud committed by strangers and financial exploitation perpetrated by family members or caregivers.

4. What identifiers should you look for to determine whether elder abuse crimes have been committed?

Methods of determining if abuse has occurred include:

- Interview neighbors.
- Identify and interview victims' doctors, conservators, lawyers, social workers, and any agency that provides services to them.
- Ask victims who lives with them or makes visits.
- Look to see if there are ligature marks on their wrists, legs, or around their necks.
- Check to see if victims have food in the house and determine who does the shopping.
- If victims are in a confused state, determine if they are on medication or if they are suffering from a mental impairment.
- If the abuse occurred in a residential setting, interview the staff for potential witnesses.

Methods of determining if fiduciary abuse occurred:

- Uncharacteristic bank activity
- Suspicious activity on victims' credit card accounts
- Frequent unauthorized use of victims' ATM card
- Finding that an unwitnessed will has been drawn up

5. What are the interviewing limitations with the elderly population?

While not often talked about, alcohol and prescription-drug abuse is of concern with this population. Late-onset schizophrenia can occur, and women who are isolated and who have hearing impairments are the most affected. Further, cognitive impairments may cause older people to have trouble remembering or processing information. Cognitive interviewing techniques may help them recall information. Elderly persons commonly lose the ability to hear high-frequency sounds, and they experience hypersensitivity to very loud speech.

6. Who are the most common abusers of the elderly? What should an interviewer document when interviewing victims who are dependent on others to take care of them?

The most common abusers of the elderly are their own adult children. They are especially vulnerable when they are financially dependent upon a caretaker.

7. What should an interviewer document when interviewing victims who are dependent on others to take care of them?

Some of the key points that should be documented during an interview follow:

- Does it appear that the elder person is getting all the medical attention he or she needs: eyeglasses, dental care, or medications?
- When bedsores or incontinence exist, determine if the care being provided is sufficient to meet the needs of the elder person.
- Are the services provided under contract with specified payments?
- How are the payments made?
- Has the suspect accepted personal gifts from the elder victim, and, if so, what is their value?
- Is the suspect frustrated or angry due to the responsibilities associated with providing services to the elder person?

8. What are the some of the considerations for interviewing elderly victims? Find examples in your state code where they exist.

- Schedule the interview for mid-morning, a time when the victim is most likely to be at his or her best.
- Use cognitive memory-enhancing techniques to improve statement content.
- Ask the interviewee if he or she is having trouble hearing; do not assume that this is the case.
- The interviewer should position himself or herself directly across from the victim, since the victim may have to compensate for hearing loss by reading lips and watching facial expressions.
- Use visual aids when possible.
- Eliminate background noise.
- Male interviewers may be the best option.

Fill-In Questions

1. In 2030, _____ Americans will be age 65 years or older. (1 in 5)
2. Every year an estimated _____ older Americans are victims of physical, psychological, or other forms of abuse and neglect. (2.1 million)
3. One method of identifying limitations of the interviewee and the nature of the offense among the elderly population is through the _____. (conversation-observing evaluation)
4. Elders are more susceptible to _____ than younger adults, which is defined as difficulty distinguishing what they witnessed themselves as opposed to what they may have heard from someone else. (source confusion)
5. _____ is the deliberate attempt by a caregiver to inflict injury or emotional stress on an older person. (Active neglect)
6. _____ occurs when an older person is tricked, coerced, or under undue influence signs away money or property. (Fiduciary abuse)
7. Considered an invisible epidemic, _____ and _____ misuse is thought to affect 17 percent of older adults. (alcohol; prescription-drug)
8. When an elderly victim has difficulty recalling information during an interview, _____ might be used to help with this process. (memory-jogging techniques)
9. The elderly are victimized by consumer fraud at a rate that _____ the victimization rate of those younger than age 50. (exceeds)
10. To build a case, evidence from _____, _____, and _____ is particularly relevant. (medical personnel; home-health aids; advocates).

Exercises

1. Interview a person age 65 or older. The person can be a relative, a neighbor, or someone who works on campus. The topic of the interview is whether the person has ever been the victim of a crime. If the subject has never been the victim of a crime, an alternate topic is whether he or she has been in a car accident or stopped by the police since turning age 60. Using the steps outlined in this chapter on interviewing the elderly, conduct a pre-interview and then follow each of the steps except for the followup. Write a report on the assessment and facts.
2. Explain the role of policing in cases involving the abuse of elders. A good source is available at the following address: <http://www.preventelderabuse.org/professionals/law.html>.

True/False Questions

1. In domestic violence among older American married couples, the woman is statistically as likely as the man to be the abuser.
ANS: T
2. Elder abuse is most frequently the result of caregiver stress.
ANS: F
3. The Bureau of Justice Statistics defines elderly as being aged 60 or older.
ANS: F
4. Professionals are mandated to report suspected abuse or neglect in half of the states and the District of Columbia.
ANS: F

Multiple-Choice Questions

1. In 2030, _____ Americans will be age 65 or older.
a. 1 in 5
b. 2 in 4
c. 5 in 6
d. 8 in 10
ANS: a
2. Every year an estimated _____ older Americans are victims of physical, psychological, or other forms of abuse and neglect.
a. 1.1 million
b. 1 million
c. 2.1 million
d. 2 million
ANS: c

3. One method of identifying limitations of the interviewee and the nature of the offense among the elderly population is through the:

- a. face-to-face interview.
- b. conversation-observing evaluation.
- c. neighborhood canvas.
- d. home-health aide.

ANS: b

4. Elders are more susceptible to _____ than younger adults because of difficulty in distinguishing what they have witnessed themselves from what they may have heard from someone else.

- a. contamination
- b. false information
- c. misinformation
- d. source confusion

ANS: d

5. _____ is the deliberate attempt by a caregiver to inflict injury or emotional stress on an older person.

- a. Active neglect
- b. Passive neglect
- c. Sexual abuse
- d. Self-neglect

ANS: a

6. _____ occurs when an older person is tricked, coerced, or, under undue influence, signs away money or property.

- a. Emotional abuse
- b. Fiduciary abuse
- c. Sexual abuse
- d. Self-neglect

ANS: b

7. Explained as an invisible epidemic, alcohol and _____ is thought to affect 17 percent of older adults.

- a. dementia
- b. spouse battering
- c. prescription-drug misuse
- d. schizophrenia

ANS: c

8. When elder victims have difficulty recalling information during an interview, _____ might be used to help them with this process.

- a. milk and cookies
- b. memory-jogging techniques
- c. face-to-face interviewing
- d. chewing gum

ANS: b

9. Elders are victimized by consumer fraud at a rate that _____ the victimization of those under 50.

- a. is equal to
- b. is less than
- c. exceeds
- d. is more harmful than

ANS: c

10. In order to build a case, evidence from _____, home-health aids, and advocates is particularly relevant.

- a. medical personnel
- b. neighbors
- c. sons and daughters
- d. the spouse

ANS: a

11. The most frequent form of elder abuse is:

- a. abandonment.
- b. physical abuse.
- c. sexual abuse.
- d. self-neglect.

ANS: d

12. The pre-interview for the purpose of an assessment of the elder through direct observation is known as:

- a. a friendly talk.
- b. crisis response.
- c. conversation-observing.
- d. rapport-building.

ANS: c

13. The most common form of violence against elders is:

- a. fiduciary crime.
- b. domestic violence.
- c. purse snatching.
- d. murder.

ANS: b

14. The most common abuser of the elderly is:

- a. a spouse.
- b. the adult son or daughter.
- c. a home-health aide.
- d. a grandchild.

ANS: b

15. As people get older, they commit less crime; this is referred to as:

- a. growing up.
- b. getting tired.
- c. no longer caring.
- d. aging out.

ANS: d

16. Approximately one-third of the perpetrators of elder abuse are:

- a. under age 18.
- b. between age 18 and 60.
- c. the same age as the victim.
- d. age 60 and above.

ANS: d

Chapter 9: Interviewing Persons with Disabilities or Mental Illness

Chapter Overview

The focus of this chapter is on introducing the reader to the challenges of interviewing and interrogating persons with a disability. Crimes committed against this population are higher than in the population in general; however, the reporting and prosecution rates are lower.

This chapter provides an in-depth discussion of the issues that can arise when interviewing this population. Changes in the legal code and the impact that they have on officers across the nation are addressed. Persons with disabilities present to the police with their own set of values that can be counterintuitive to what officers are used to observing in interviewees. The values and behaviors of individuals with disabilities are discussed as well as techniques that can be used to help the interviewer gather information.

During the interview, officers should be aware of false confessions and other communication barriers. Therefore, the use of appropriate adults is included, as well as a discussion of the approach the interviewer should consider before meeting with a victim or witness with a disability. Negative attitudes are often the largest barrier to working with this population. This chapter offers insight and suggestions regarding how to interview or interrogate a person who has a disability or suffers from mental illness.

Instructor Notes

1. American with Disabilities Act

In 2001, a prisoner at Georgia's Phillips State Prison who was mentally ill and had an extensive history of self-mutilation heard about the murder of another prisoner at the hands of his cellmate in a nearby cell. The prisoner responded to the stress by cutting himself and was subsequently given a disciplinary report and placed in an isolation cell for "destruction of state property."

Approximately 54 million Americans live with a wide variety of physical, cognitive, and emotional disabilities. This is of concern since one of every 10 police calls nationally involves someone who is mentally ill.

The American with Disabilities Act requires some *accommodations* that affect interviewing this population. It commands that government officials attempt effective communication with individuals having disabilities, but they are not required to alter the nature of the service to do so. Examples of accommodations include:

- An interpreter
- The use of auxiliary aids such as note-takers, transcript services, audio recordings, or large-print materials

2. ADA Case Examples

Why would interviewers need to know about the Americans with Disabilities Act? Because the police are expected to recognize a situation in which a person has a disability. Claims against police departments for failure to train officers on handling persons with disabilities have surfaced in the Federal Court.

Jackson v. Town of Sanford (1994): A man was arrested for drunk driving but was sober. His unsteadiness and slurred speech resulted from a past stroke.

Lewis v. Truitt (1997): A deaf man, who could not understand the commands of the police, was beaten and arrested for resisting arrest.

Gohier v. Enright (1999): Arrest is broadly interpreted to include arrests, violent confrontations not technically involving an arrest, and pre-arrest investigations.

3. Identifying When Special Care Is Necessary

Persons having mental illness and mental retardation are highly represented in the criminal-justice system, but these forms of disability are not the same.

Mental Illness

Affects moods and emotions

IQ can vary

Occurs at any time

Condition may/may not be noticeable

Mental Retardation

Decreased ability to learn

Low IQ

Occurs before age 18

Condition often is not noticeable

There are three categories of severe mental illness that may be encountered by criminal-justice professionals: schizophrenia, bipolar disorder, and serious depression.

Schizophrenia is found 3 to 6 times more often in the prison population than in the general population. This complex disease may include disordered thinking or speech, delusions, hallucinations, inappropriate emotions, confusion, withdrawal, and inattention to personal grooming.

Bipolar disorder (previously called manic-depressive disorder) is characterized by frequent dramatic mood swings from depressions to mania.

Serious depression puts people at an increased risk for suicide and self-mutilation.

Schizophrenia: Individuals with this mental disorder may exhibit anxiety, anger, aloofness, argumentativeness, and a superior or patronizing manner. Individuals with this disorder may be provocative and can be dangerous.

Bipolar disorder: During manic phases some people may be psychotic and may experience delusions or hallucinations. In a manic phase, individuals with this disorder can be disruptive, quick to anger, provocative, and dangerous.

4. Field Evaluations

Police officers and sheriff's deputies have been forced to become front-line mental-health workers. In 1998, law-enforcement officers were more likely to be killed by a person with mental illness than by an assailant with a prior arrest for assaulting police or resisting arrest. People with mental illnesses are killed by police in justifiable homicides at a rate nearly four times greater than the general public.

In some situations, it is possible to identify a potential threat to the officer in the field situation. Taking the time to make a field assessment is similar to making determinations during a face-to-face interview based on behavioral indicators. There are two strategies for identifying a potential threat: *distant field evaluation* and *detailed field evaluation*.

Distant field evaluation: A non-verbal assessment conducted from a distance of more than 3 feet. Questions to ask yourself include the following:

- Is the person dressed inappropriately for the weather?
- Is the person stumbling or appearing confused?
- Do you notice any inappropriate actions of the person with peers or the opposite sex?

- Does the person appear gravely disabled?

If the answer to any of these questions is yes, proceed slowly toward the person and use the detailed field evaluation strategy.

Detailed field evaluation: Used when the person is at close proximity in order to determine if there are problems that must be addressed. It should include verbal statements, and it is important to adopt a non-threatening approach toward the interviewee.

5. Interviewing the Person

Marianne is a woman with severe mental retardation who lives in a secure facility. She was “caught” having sex with another patient. Of great concern was whether she had been forced, which would mean that the act was a rape. Staff felt that Marianne lacked the ability to consent to sex, and that force could be established merely through her confusion.

The law clearly gave Marianne the right to choose, regardless of her disability. During the interview she stated that she wanted to do it, liked it, and wanted to do it more. Marianne also said that she wanted to see her friend again. The suspect was also a person with diminished capacity. Since her explanation was consistent with her legal right to choose, there was no crime committed.

While persons with disabilities are victimized more frequently than the general population, choice is still a consideration. Remember the basics when interviewing a person with a disability. Following are tips for interviewing persons with a disability:

- Do not phrase questions in legal terms.
- Do not infantilize the person.
- Keep sentences short and to the point.
- Avoid asking “why?”.
- Avoid leading questions and questions that can be answered with “yes” or “no.”
- If possible, the interview should last no longer than 30 minutes.
- Confirm the vocabulary of the interviewee.

6. Minimize False Confessions

The desire to solve a crime through a suspect confession is a legitimate goal. However, an interrogation of individuals who have mental retardation is a concern because false confessions may occur. There is a proven link between low IQ and false confessions. In particular, persons having mental retardation usually want to please police officers and may incriminate themselves even when innocent of any crime.

Means of minimizing false confessions include the following:

- Follow up on statements suggestive of guilt by asking for details.
- Verify that the accused understands what is being said.
- Avoid lengthy interrogations.

Short-Answer Questions

1. What does Title II of the ADA refer to, and how does it affect the police?

Title II states that persons with disabilities shall not be denied benefits/programs of the community or be discriminated against because of their condition. This affects officers at many different levels, including the following:

- Receiving Citizen complaints
- Interviewing and interrogating
- Arresting, booking, and holding suspects
- Enforcing laws

2. Because the ADA affects the job of the police officer on so many levels, it is important to understand how the courts will define certain actions. According to the federal courts, how is the term “arrest” interpreted under the ADA?

The courts broadly interpret the term “arrest” to mean not only arrest, but also pre-arrest investigations and violent confrontations not technically involving arrest (*Gohier v. Enright*, 1999).

3. What are the two significant cases mentioned in your textbook that involve wrongful arrest, and what techniques can prevent mistakes?

Lewis v. Truitt (1997): A deaf man, who could not understand the commands of the police, was beaten and arrested by police for resisting arrest.

Jackson v. Town of Sanford (1994): A man was arrested for drunk driving but was sober. His unsteadiness and slurred speech resulted from a past stroke.

Some techniques to avoid these types of situations include noticing if there is a handicapped license plate on the car in question. Further, the use of hand signals or communicating to people in a crowd to signal that a person should stop running can prevent false arrest. By speaking clearly and using breathalyzers, officers can better determine if the person is driving under the influence.

4. Describe some of the challenges that must be overcome for successful interviewing of the disabled and mentally-ill populations.

Negative attitudes may be the largest impediment to a successful interview with this population. It is important for the interviewer to be familiar with certain behaviors or value systems that are specific to persons with a disability. For instance, they may appear overly compliant and initially deny that they have been victimized. Often they will obey the rules and prefer not to get anyone in trouble. The interviewer must overcome any bias against those with mental retardation as stupid or less credible. This often results in interviewers talking down to interviewees, treating them like children and thereby losing rapport and potentially important information.

5. What is the difference between a person with a mental illness and a person with mental retardation?

Mental Illness

Affects moods and emotions

IQ can vary

Mental Retardation

Decreases ability to learn

Low IQ

Occurs at any time
Condition may/may not be noticeable
Can be associated with violent outbursts
(psychosis)

Occurs before age 18
Condition often is not noticeable
Person not violent

6. What are some of the behavioral traits that may occur in individuals with disabilities? For most people, meeting with the police can be an anxiety-inducing event. A person with a disability may exhibit his or her anxiety differently than someone who does not have a disability. For instance, a person with a disability may not be able to understand or answer a question, have a short attention span, have a limited vocabulary, or have a speech impediment. In addition to cognitive impairment and difficulty communicating, his or her mood may be inconsistent with the situation. Verbal and non-verbal behaviors can include yelling, biting, hugging, and rubbing of genital areas or breasts.

7. In order to assess a situation, an officer can use a *distant field evaluation* or a *detailed field evaluation*. Briefly discuss each.

A *distant field evaluation* is a non-verbal assessment that is conducted from a distance of more than three feet. This is used when a person attracts attention to himself or herself for the following reasons:

- Inappropriate dress for the weather
- Being in a dangerous situation
- Appearing to be in a confused state
- Inappropriate actions
- Seeming to be gravely disabled in judgment or because of substance abuse

A *detailed field evaluation* is an up-close assessment to determine the state of the individual (mentally disordered or physically handicapped). The purpose is to determine if there are problems that need to be addressed or if mandated reporting is required.

8. How does the crime rate compare for persons with disabilities and the general population?

There is a higher rate of victimization among the disabled population for crimes of assault, sexual assault, and robbery. As a result, some states have taken action to provide additional protections for persons with disabilities from abandonment, financial exploitation, personal victimization, and neglect.

9. Why would an interviewer use an appropriate adult in an interview with a person who has a disability?

An appropriate adult is someone who is independent of the police and the interviewee. The purpose of an appropriate adult is to help provide better communication, not to offer advice.

10. What concerns should the interviewer have when interviewing a person with a disability?

Questions should be phrased simply and with limited legal terms. The interviewer should use open-ended questions and avoid complicated or technical terms. The interviewer may encourage the interviewee to clarify terms and meanings to ensure good communication. The goal of interviewing the victim is to determine if a crime has been committed, to obtain helpful

information, and to gather evidence for prosecution. The goal for the witness is the corroboration of events that would substantiate criminal activity.

Fill-In Questions

1. When interrogating persons with mental retardation, _____ should be of great concern. (false confessions)
2. According to Miranda, _____ procedures can lead to false confessions among individuals with a low IQ. (interrogation)
3. Impaired adults are at a _____ risk for being physically or sexually assaulted than are other adults. (higher)
4. _____ provides that “no qualified individual with a disability shall by reason of such disability be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” (Title II of the ADA)
5. A(n) _____ can be used to help facilitate communication during an interview with a person with a disability. (appropriate adult)
6. _____ is considered by the federal court under Title II of the ADA as pre-arrest investigations and violent confrontations not technically involving arrest. (Arrest)
7. The largest impediment to successful interviewing the disabled or mentally ill population is a _____. (negative attitude)
8. Persons with mental retardation will have a low IQ, while a person who is mentally ill can have an IQ that is _____. (low or high)
9. Mental retardation usually occurs before age _____. (18)
10. Individuals with _____ pose a documented rate of violence that is several times higher than that of the general population. (paranoid schizophrenia)

Exercises

1. Write an essay on facilitated communication, stating the pros and cons of this method. Start your search for information at the Web site of the Facilitated Communication Institute: <http://soeweb.syr.edu/thefci/>.
2. Break into pairs. In this mock interview, one participant assumes the persona of a person with a disability. The interviewee should choose and become familiar with one of the major categories of disability: mental retardation, mental illness, and personality disorder. The interviewer must become familiar with the cautionary approaches to conducting an interview with a person who has a disability. The purpose of the interview is to determine whether the interviewee was sexually assaulted by a neighbor. Take 10 minutes for this exercise, and report your experiences to the class.
3. Reverse the roles in exercise 2. Take 10 minutes for the interview, and report your experiences to the class.
4. Explain the two methods for field evaluation of persons with mental illness and persons with mental retardation, and give reasons why the evaluation would be beneficial to potential

interviewers. List questions that would be helpful when making a field evaluation of a person suspected of having a disability.

5. Locate “A Police Officer’s Guide When in Contact with People Who Have Mental Retardation” on the Web at <http://www.thearc.org/publications>. Write a report on how interrogation of an individual who has mental retardation can affect the criminal-justice process.

True/False Questions

1. Title II of the Americans with Disabilities Act states that persons with disabilities shall not be denied benefits/programs of the community or be discriminated against because of their condition.

ANS: T

2. The first step in interviewing persons with disabilities is mirroring for rapport.

ANS: F

3. Individuals with paranoid schizophrenia have a documented rate of violence when they are not properly treated.

ANS: T

4. The purpose of an appropriate adult is to help provide better communication and to legally advise the person who has a disability.

ANS: F

5. Children with disabilities are victimized more frequently than children without disabilities.

ANS: T

Multiple-Choice Questions

1. The court in _____ broadly interpreted the term “arrest” to mean not only arrest, but also pre-arrest investigations and violent confrontations not technically involving arrest.

a. *Jackson v. Town of Sanford*

c. *Lewis v. Truitt*

b. *Gohier v. Enright*

d. *Miranda v. Arizona*

ANS: b

2. Which of the following cases involved the wrongful arrest of a deaf man who was beaten and arrested by police for resisting arrest?

a. *Jackson v. Town of Sanford*

c. *Lewis v. Truitt*

b. *Gohier v. Enright*

d. *Miranda v. Arizona*

ANS: c

3. Which of the following cases involved the wrongful arrest of a man who was arrested for drunk driving but was sober? His unsteadiness and slurred speech resulted from a past stroke.

- a. *Jackson v. Town of Sanford*
- b. *Gohier v. Enright*
- c. *Lewis v. Truitt*
- d. *Miranda v. Arizona*

ANS: b

4. Which of the following is NOT among the challenges that must be overcome for successful interviewing of persons who have a disability?

- a. negative attitudes
- b. considering those with mental retardation to be stupid
- c. forcing compliance
- d. treating those having mental retardation as being less than credible

ANS: c

5. Which of the following is characteristic of mental illness?

- a. It affects moods and emotions.
- b. It results in a decreased ability to learn.
- c. The person is not violent.
- d. It may affect communication.

ANS: a

6. Which of the following is characteristic of mental retardation?

- a. It affects moods and emotions.
- b. Individuals can be manipulative, volatile, and disruptive.
- c. The person may become violent.
- d. Individuals appear overly compliant.

ANS: d

7. Which of the following is characteristic of personality disorders?

- a. They cause speech impediments.
- b. Individuals can be manipulative, volatile, and disruptive.
- c. Individuals have a low IQ.
- d. Individuals appear overly compliant.

ANS: b

8. A _____ is a non-verbal assessment that is conducted from a distance of more than 3 feet.

- a. distant field evaluation
- b. detailed evaluation
- c. risk assessment
- d. mental assessment

ANS: a

9. A _____ is an up-close assessment to determine the state of the individual (mentally disordered or physically handicapped). The purpose is to determine if there are problems that need to be addressed or if mandated reporting is required.

- a. distant field evaluation
- b. detailed evaluation
- c. risk assessment
- d. mental assessment

ANS: b

10. When interrogating persons with mental retardation, _____ should be of great concern.

- a. false confessions
- b. hunger
- c. violent outbreaks
- d. lying

ANS: a

11. According to the Court in *Miranda*, _____ procedures can lead to false confessions among individuals with a low IQ.

- a. interviewing
- b. torture
- c. interrogation
- d. compliant

ANS: c

12. Impaired adults are at _____ risk for being physically or sexually assaulted than other adults.

- a. the same
- b. a higher
- c. a lower
- d. none of the above

ANS: b

13. Persons who are mentally retarded have a low IQ, and persons who are mentally ill can have an IQ that is:

- a. low.
- b. high.
- c. low or high.
- d. absent.

ANS: c

14. Mental retardation usually occurs:

- a. at any age.
- b. at age 60.
- c. at puberty.
- d. before age 18.

ANS: d

15. Subjects with _____ have a documented rate of violence several times higher than that of the general population.

- a. paranoid schizophrenia
- b. depression
- c. personality disorders
- d. mental retardation

ANS: a

16. Approximately _____ Americans live with a wide variety of physical, cognitive, and emotional disabilities.

- a. one-half million
- b. 1 million
- c. 26 million
- d. 54 million

ANS: d

Part IV: Interrogation

Instructor Tips

Students of interviewing and interrogation will benefit from the ability to research case law and learn about the applicability of law to interrogation practice. You may consider using the following example as a guide to constructing legal case briefs:

Citation: Commonwealth v. DiGiambattista 442 Mass. 423 (2004)

This case is about a recent decision in which the Supreme Judicial Court strongly encourages police officers to “electronically record” all custodial interrogations.

Material Facts: On March 10, 1998, an empty apartment in the town of Chelsea was destroyed by fire. The apartment had only recently been left empty by the defendant DiGiambattista, who had constantly complained to the landlord about the deplorable living conditions there.

Investigation showed that the fire had likely been set on purpose and that an accelerant, possibly gasoline, had been used. DiGiambattista became a suspect in the case.

On April 10, DiGiambattista accompanied two police officers to a nearby fire station for questioning. He was told that he was free to leave at any time and was read the Miranda warnings. At first, he was questioned in a mild-mannered way, and he denied setting the fire or even being at the scene that night. Then the questioning trooper told DiGiambattista that he had a videotape that placed DiGiambattista at the scene. At that point, another trooper came into the room carrying a thick folder and two videotapes. One was marked with the address of the fire scene, and the other was labeled to indicate a fire insurance investigation. No such evidence existed, however. In actuality both tapes were blank and the folder was filled with blank sheets of paper. These items were placed on the desk next to DiGiambattista. Questioning continued, and eventually DiGiambattista confessed to the crime.

Legal Facts: DiGiambattista filed a motion to suppress his confession on the claim that it lacked the required voluntariness. Through a series of appeals, the case now comes before the Supreme Judicial Court (SJC).

Legal Issues: In light of the fact that DiGiambattista at first proclaimed his innocence; that the troopers used trickery and deceit to obtain the confession; that details of DiGiambattista’s confession did not match the forensics of the scene or were even, in some cases, possible; and that there was no corroborating evidence, the Court attempted to reconstruct the interrogation to determine the voluntariness of the confession.

The Holding: The Court held in favor of DiGiambattista. His motion to suppress the confession was allowed, and the case was remanded to the Superior Court for further proceedings.

Legal Rationale: There are two issues addressed by the Court in this case.

The first is the use of trickery and deceit to obtain the confession. The Court reiterated its stand that, while it “expressly disapproves” of this tactic, the tactic is not absolutely prohibited. The use of such tactics, however, cast doubt on both the validity of the suspect’s waiver of rights and the voluntariness of the confession.

The second issue is whether the Court will now require electronic recording of all custodial interrogations. The Court held short of this requirement but stated that, henceforth, a defendant whose interrogation has not been recorded should be entitled, on request, to a cautionary jury instruction by the judge. That instruction should state that, in the absence of any

recording before them, the jury should weigh evidence of the defendant's alleged statement with great caution and care.

Additional Exercises for Chapters 10–13

1. ***Kaupp v. Texas***

Introduction: This discussion evaluates the case *Kaupp vs. Texas* (2003). To prepare for the discussion, review the case of *Kaupp v. Texas* (2003) from Chapter 10 in the textbook.

Assignment: After reviewing the case, post your response to the following question on the online discussion forum: Why does the *Kaupp v. Texas* (2003) case represent a Fourth Amendment interrogation situation? State what could have been done differently to change the outcome of the case.

2. **Right to Counsel**

Introduction: The Miranda standard includes the right to have an attorney present during a custodial interrogation under its required procedural process.

Assignment: Explain when the right to counsel attaches under the Miranda standard as compared to the Sixth Amendment. Explain the forms of coercion that would invalidate a confession, even if the suspect's Miranda rights were properly waived. How does custody affect this situation?

3. **Qualities of an Interrogator**

Introduction: Successful interrogation is greatly dependent on the skills and qualities of the individual conducting the interrogation. For this assignment, you will need to identify which of these skills and qualities are most important.

Assignment: List the characteristics and personal qualities of those who are most likely to conduct successful and lawful interrogations. Explain, with example(s), why these qualities are important. Also list the characteristics of the interrogator that have no bearing on the outcome of interrogations. Support your answer with examples and reasoning. Submit your response to your instructor in a Word document no more than two pages long (approximately 300 words).

4. **Interrogation Preparation**

Introduction: In this assignment, you will compare and contrast the preparation and assessment for an interrogation with that for an interview.

Assignment:

- Refer to Chapter 12 of your textbook and access the information under the heading Phase I—Preparation. Briefly outline the five interrogation preparation steps in phase I in a column on the left side of your paper.
- Next, open the textbook to Chapter 2 under the heading Phase I—Interview Preparation. Write the first three steps for interviewing preparation in a column on the right side of your paper.
- Now that these steps are side by side, analyze the preparation for the interrogation compared to the interview preparation. Write down the answer to these questions: What makes the interrogation different from the interview? In what ways are they similar?

5. Develop Tactics

Introduction: Following is a list of the 10 most common tactics used during police interrogation, which are located in the textbook under the heading Interrogation Phase II—Develop Outcome-Based Tactics:

1. An appeal to the suspect's self-interest
2. Confronting the suspect with evidence of guilt
3. Undermining the suspect's confidence in his or her denials
4. Identifying contradictions in the suspect's alibi or story
5. Asking specific "behavioral analysis" interview questions
6. Appealing to the importance of cooperation
7. Offering moral justifications and face-saving excuses
8. Confronting the suspect with false evidence of guilt
9. Praising or flattering the suspect
10. Appealing to the detective's expertise and authority

Assignment: Read the case scenario "Been There ... Done That 12-4" in the textbook. Imagine that you are assigned to conduct an interrogation of the suspect in Jane Doe's assault case. Identify at least five outcome-based tactics that you would use to persuade the suspect to confess. Explain why you think these tactics would be beneficial.

For each of the five tactics you have selected, provide examples of at least two questions that would employ the use of the tactic, and explain what you would ask the suspect. For example, if you are the interrogator, what would you say that would appeal to the suspect's self-interest? What would you say to confront the suspect with evidence of guilt?

Sample questions that appeal to a suspect's self interest could be, "Don't you want the chance to tell me what really happened?" or "Don't you think you would be better off if you told your side of the story? At least the prosecution would see that you are cooperating." Post your response to the appropriate discussion forum and respond to at least two other postings. Discuss the examples that each of your peers provide by giving your own viewpoints on each example. Submit your answers to your instructor in a Word document not more than two pages long (approximately 300 words).

Additional Instructor Resources

1. **Criminal Confessions.** Production year: 1999/DVD 2003. This DVD provides real interrogations and confessions of convicted criminals. Use for evaluating the interrogation techniques of the police officers shown. Featured killers include Joseph Paul Franklin, a racist serial killer of 26 people who also shot Vernon Jordan and Larry Flynt; Bernard Goetz, who shot four young men who tried to rob him in the New York City subway; Luke Woodham, a 16-year-old who killed his mother and girlfriend; Richard Allen Davis, who abducted and murdered 12-year-old Polly Klaas. The DVD is available online; one source is dvdempire.com. The cost is approximately \$8.50.

2. **Center on Wrongful Confessions, Causes and Remedies: False Confessions.** This Web site gives you the chance to learn more about the issues surrounding false confessions. Specific cases are highlighted where false confessions produced a wrongful guilty finding. Access this information at the following Web address:
<http://www.law.northwestern.edu/depts/clinic/wrongful/FalseConfessionsindex.htm>.

3. Leo, R.A. (1996). Inside the interrogation room. *Journal of Criminal Law and Criminology* 86, 266–303. Available at <http://www.lexisnexis.com//universe>.

Chapter 10: The Interrogation Process and the Law

Chapter Overview

The focus of this chapter is introducing the reader to the case law and principles that are the guidelines for police interrogation. From the position that the U.S. legal system rests on the rule of law, it provides a positive tone to interrogation guidelines. The Exclusionary Rule is given prominence as the primary remedy for police misconduct when collecting evidence in violation of constitutional mandates. The fruit of poisonous tree doctrine also is introduced.

This chapter provides an in-depth discussion of interrogation considerations according to the Fourth, Fifth, Sixth, and Fourteenth Amendments of the United States Constitution. Several major Supreme Court cases that provide precedent for interrogation policy are highlighted.

During the interrogation, officers should be aware of the high standard that probable cause presents. The role of probable cause and the methods to satisfy this standard of proof are incorporated into the interrogation and arrest scenario. Miranda warnings and the situations under which they must be presented are discussed in detail. When they are required, how they are to be presented, and under what circumstances they may be waived are important aspects of this legal focus on interrogation.

Instructor Notes

1. **Fifth Amendment Considerations**

The fundamental principle on which the U.S. legal system rests is the idea that law is created by the people for the purpose of protecting citizens against tyranny and lawlessness, and for protecting freedom. The rule of law provides that those who execute the law must rely on the application of known principles or laws, and that those principles must be applied uniformly and fairly to all citizens. This is also referred to as the supremacy of law. The primary protection against self-incrimination is contained in the Fifth Amendment to the U.S. Constitution. The Fifth Amendment provides protection from a person being incriminated by *compelled testimonial* communication.

Compelled testimonial communication: *Compel* means to cause or bring about by force, threats, or overwhelming pressure. *Testimonial* is a communication that explicitly or implicitly relates or discloses information that is the expression of the person.

2. **Totality of the Circumstances Test**

Since the Fifth Amendment protects individuals from testimonial communication (spoken words), some common police practices have been found not to violate the compelled limitation. Keep in mind that each state is able to provide more protections to the suspect than are required under the constitution.

Requiring a person in custody to stand or walk in a police lineup, to speak prescribed words, to model particular clothing, or to give samples of handwriting, fingerprints, or blood does not compel him to incriminate himself within the meaning of the clause (*Schmerber v. California*, 1966).

Generally, conversations between suspects and undercover agents do not fall under the umbrella of compelling and are permissible (*Hoffa v. United States*, 1966). The Supreme Court has decided that a conversation between a suspect (who was in jail) and an undercover agent did not rise to the level of a “police-dominated atmosphere.” Where the inmate speaks freely to someone that he believes to be a fellow inmate, no compulsion was present (*Illinois v. Perkins*, 1990).

In any of the above situations, a totality-of-the-circumstances test may be used to determine if coercive tactics were used during the conversations.

Totality of the circumstances: The court will typically look at all of the physical or psychological pressures to determine if they unduly influenced the accused to make a statement.

3. **The Miranda Standard**

The Fifth Amendment demands that police officers provide procedural safeguards to suspects by stating their rights prior to custodial questioning according to *Miranda*. The decision was extremely controversial at one time. Congress attempted to overrule *Miranda* two years after it was decided by enacting §3501 of the 1968 Crime Bill. The federal standard only required that voluntariness be established in order for a confession to be admissible. In a sharp rebuke to Congress, the Court stated: “This Court has supervisory authority over the federal courts, and we may use that authority to prescribe rules of evidence and procedure that are binding in those tribunals. . . . Congress may not legislatively supersede our decisions interpreting and applying the Constitution” (*Dickerson v. United States*, 2000). The federal statute was struck down.

Today the Miranda warnings are deeply ingrained in our culture. It is well-understood that these protections must be stated to a suspect. What may not be as clear is when and how these rights must be given according to the *Miranda* decision.

When are Miranda warnings required? Miranda warnings or their equivalent must be given prior to questioning (direct or indirect) when it has been initiated by a state actor (a police officer) *and* that person has been taken into custody or otherwise deprived of freedom of action in any significant way.

How do the Miranda rights need to be provided? These rights do *not* have to be provided verbatim (word for word), nor did the Court require that they be provided to a suspect in writing.

4. **Waiver of Miranda Rights**

The issue of voluntariness was fully covered in the *Miranda* decision. It states: “The trial judge in determining the issue of voluntariness shall take into consideration all the circumstances surrounding the giving of the confession, including:

- (1) the time elapsing between arrest and arraignment of the defendant making the confession, if it was made after arrest and before arraignment,
- (2) whether such defendant knew the nature of the offense with which he was charged or of which he was suspected at the time of making the confession,
- (3) whether or not such defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him,
- (4) whether or not such defendant had been advised prior to questioning of his right to the assistance of counsel; and
- (5) whether or not such defendant was without the assistance of counsel when questioned and when giving such confession.”

There are three measures of whether the individual has properly waived his or her right to remain silent. The waiver must be voluntary, made knowingly, and intelligently.

The waiver must be made voluntarily: The government must prove that the waiver was not the result of coercion or other factors that adversely influenced the defendant's exercise of free will.

The waiver must be made knowingly: The government must prove that the defendant knew and understood his or her rights.

5. **Right to Counsel**

The right to an attorney comes from two different sources. The first instance is a requirement under the *Miranda* decision. It is a right that falls under the Fifth Amendment, which governs the protection against self-incrimination.

As many of you are aware from your knowledge of the *Miranda* warnings, a suspect who is in custody and is subjected to interrogation must be provided with the information that he or she has the right to an attorney. A valid waiver of an attorney under the *Miranda* decision is held to the same standards as the other protected rights. This waiver must also be made voluntarily, knowingly, and intelligently.

The second source for the right to counsel comes from the Sixth Amendment. The present-day right to the assistance of counsel has been evolving since 1964 after the case of *Massiah v. United States*. In that case the defendant had been indicted on federal narcotics charges and was released on bail. His co-defendant, acting as a government informant, recorded incriminating statements from the defendant on that charge. The information was later used at trial against the defendant. The Court ruled this as a denial of the right to the assistance of counsel.

Another significant right-to-counsel case came about in 1997 with *Brewer v. the United States*. The defendant had been arrested on a warrant, arraigned, and jailed for the abduction of a 10-year-old girl. The police officers that were transporting Brewer from one jurisdiction to another agreed not to question the defendant. Knowing that Brewer was deeply religious, one of the officers suggested during the transportation that Brewer reveal the location of the girl's body so that the parents could provide her with a Christian burial. This has become known as the "Christian burial speech." Eventually the defendant directed the police to the girl's body. The Court ruled that the speech amounted to an interrogation, and the defendant's conviction was overturned.

The Sixth Amendment right to counsel: This right attaches through a formal charge in court. Examples include a preliminary hearing, an indictment, information, and an arraignment.

6. **Fourteenth Amendment Considerations**

Through the Fourteenth Amendment, the rules that are constitutionally required apply equally to both Federal and State police action through its Due Process Clause. The legal process that is used to keep the evidence from being used is called the *Exclusionary Rule*.

The Exclusionary Rule is a judge-made rule, adopted by the courts to deter violations of constitutional rights. The rule has always been controversial. In 1914, the Court devised the Exclusionary Rule as required under the Fourth Amendment, even though it was neither required by the common law nor by the Fourth Amendment for its first 100 years.

Exclusionary Rule: Requires that evidence obtained by police in violation of the Fourteenth Amendment's Due Process Clause, the Sixth Amendment's right to counsel

provision, the Fifth Amendment's privilege against self-incrimination, or the Fourth Amendment's protection from illegal search and seizure would be excluded from use in trial against a defendant.

Short-Answer Questions

1. What rights of the accused does the Fifth Amendment to the U.S. Constitution protect? The Fifth Amendment contains many protections; of concern in the area of interrogation is that it protects the right against compelled testimonial communication and self-incrimination.

2. What rights of the accused does the Sixth Amendment to the U.S. Constitution protect? The Sixth Amendment protects the rights of persons accused in criminal prosecution. The right to counsel under the Sixth Amendment and the Due Process Clause of Fourteenth Amendment prohibit law enforcement officers from deliberately eliciting incriminating information from a defendant in the absence of counsel after a formal charge against the defendant has been filed, regardless of whether or not the defendant is in custody (*Innis*, 1980).

3. Is the Exclusionary Rule written in the U.S. Constitution? If not, how did it come to be? No. The Exclusionary Rule is a remedy that was judicially created to limit the power and authority of government officials and to assist in the enforcement of the U.S. Constitution.

4. Describe the circumstances leading to *Mapp v. Ohio*. What significance does this case have regarding the Exclusionary Rule? Three Cleveland police officers went to the apartment of Miss Dollree Mapp looking for a person suspected in a bombing. Miss Mapp refused to allow them in without a search warrant. Three hours later and after four more officers arrived, the police forcibly gained entry. At the trial no search warrant was produced by the prosecution, nor was the failure to produce one explained or accounted for. The state said that even if the search were made without authority, it is not prevented from using the unconstitutionally seized evidence at trial, citing *Wolf v. Colorado*, 338 U.S. 25 (1949), in which the Court had held "that in a prosecution in a State court for a State crime the Fourteenth Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure." The Supreme Court concluded that the Fourth Amendment does apply to the states, and evidence obtained in an unreasonable search could not be used against the suspect. *Mapp* was the case in which the Supreme Court first applied the Exclusionary Rule to the states.

5. Give an example of circumstances in which the Good Faith Doctrine would apply. A police officer making a traffic stop is informed that the operator has an open warrant. The officer arrests the subject on the warrant and, in a search subsequent to the arrest, finds drugs on the subject. The subject is then charged with possession of a controlled substance. Upon arriving at the station, it is revealed that the warrant has been recalled, but this information was not known by the officer at the time of the arrest and subsequent search. The evidence obtained would remain good based on the good faith of the officer at the time of the event that the warrant was valid.

6. Explain a police officer's "right of arrest." Who can be arrested? Where, when and why? The "right of arrest" is the police officer's power to make an arrest. The officer may arrest any person when the police officer personally sees that person committing a crime. The arrest may take place wherever he or she has the legal right to be; when an arrest warrant has been issued against an individual; or when a police officer has probable cause, based on facts and circumstances, that a person has committed or is about to commit a crime.

7. What exigent circumstances allow seizures normally outside the parameters of the Fourth Amendment?

Examples of exigent circumstances include the following:

- If the crime was one of violence and the suspect is believed to be armed and dangerous
- If there is probable cause to believe that a felony has been committed and that the suspect is in the dwelling
- If there is a likelihood that the suspect will escape if not immediately apprehended
- If there is a likelihood that evidence may be removed or destroyed

Fill-In Questions

1. The _____ provides that those who execute the law must rely on the application of known principles or laws, and those principles must be applied _____ to all citizens. (rule of law; uniformly and fairly)

2. _____, _____, and _____ protect citizens from actions of government officials and their agents and not from other citizens. (The U.S. Constitution; The Bill of Rights; Constitutional amendments)

3. The Exclusionary Rule is a remedy that was _____ to limit the power and authority of government officials and to assist in the enforcement of the _____. (judicially created; U.S. Constitution)

4. The court has acknowledged that an exact definition of _____ is difficult to express because it depends on the _____. (probable cause; totality of the circumstances)

5. Police officers may be justified in making a(n) _____ of a person based on probable cause that he or she has committed a felony, a misdemeanor that amounts to a breach of the peace in the presence of the officer, or in circumstances in which the power to do so is specifically given to police officers _____. (warrantless arrest; by statute)

6. The Fifth Amendment to the Constitution contains many protections; of concern in the area of interrogation is that it protects the right against _____ and _____. (compelled testimonial communication; self-incrimination)

7. A defendant may waive Miranda rights, provided the waiver is made _____, _____, and _____. (voluntarily; knowingly; intelligently)

8. The circumstances surrounding the statements from _____ are more carefully scrutinized because juveniles are more susceptible than adults to _____ or _____. (juveniles; coercive forces; intimidation)

9. The _____ under the Sixth Amendment and the _____ of the Fourteenth Amendment prohibit law enforcement officers from

deliberately eliciting incriminating information from a defendant in the absence of counsel after a formal charge against the defendant has been filed, regardless of whether or not the defendant is in custody. (right to counsel; Due Process Clause)

10. The right to an attorney under the Fifth Amendment Miranda rule attaches the right to consultation _____ and is concerned with _____ of the person. (prior to the interrogation stage; police custody)

Exercises

1. *You be the judge!* Using the cases in this chapter, write the opinion for the court relative to the admissibility of the following confession. (cite your cases and explain your reasoning as if this were a real case):

John and Jimmy Jones were suspected of a robbery in the liquor store on Fifth Avenue, during which the owner was also shot and killed. They were brought into the police station for questioning and placed in separate rooms. Officer Smith sat in the room with John and said nothing to him. After 15 minutes, Officer Fitzpatrick opened the door to the interrogation room and said to Officer Smith, “Jimmy told me everything” (a lie), and then left. Officer Smith turned to Jimmy and said, “We don’t need anything from you now. Talk to me if you want, but it sounds like your brother put the whole thing on you.” John gave a full confession. A motion to suppress was brought in court by his attorney.

2. *You be the judge!* Using the cases in this chapter, write the opinion for the court relative to the admissibility of the following confession (cite your cases and explain your reasoning as if this were a real case):

Cheryl Esposito was arrested for the murder of her boyfriend, Jeffrey Tang. Officer Book advised her of her rights per Miranda, which she waived. During the interrogation, Cheryl would not tell who had disposed of the body or why Jeffrey had been killed. Officer Book told her that Cheryl’s son was seen leaving the house on the night of the murder (a lie) and that he would be arrested for the murder if Cheryl did not talk. Cheryl then gave a full confession, implicating her new lover, Bruce.

True/False Questions

1. The right to counsel under the Sixth Amendment and the Due Process Clause of Fourteenth Amendment prohibits law enforcement officers from deliberately eliciting incriminating information from a defendant in the absence of counsel after a formal charge against the defendant has been filed, regardless of whether or not the defendant is in custody.

ANS: T

2. The Exclusionary Rule is a remedy that can be found in the Fourteenth Amendment to the U.S. Constitution; its purpose is to limit the power and authority of government officials.

ANS: F

3. The Fifth Amendment right attaches during all custodial interrogation.

ANS: T

4. The U.S. Constitution, its amendments, and the Bill of Rights protect citizens from intrusion by the government, its agents, and from the actions of other citizens.

ANS: F

5. The supremacy of law provides that those who execute the law must rely on the application of known principles or laws, and those principles must be applied uniformly and fairly to all citizens.

ANS: T

6. A confession, statement, or admission that is made by a person who is illegally in custody may be excluded as evidence obtained as a result of an unlawful seizure.

ANS: T

7. Hearsay may be used to establish probable cause in some situations.

ANS: T

Multiple-Choice Questions

1. What rights of the accused does the Fifth Amendment protect?

- a. compelled testimonial communication
- b. self-incrimination
- c. both a and b
- d. neither a nor b

ANS: c

2. _____ is the case in which the Supreme Court first applied the Exclusionary Rule to the states.

- a. *Weeks v. U.S.*
- b. *Won Sun v. U.S.*
- c. *Mapp v. Ohio*
- d. *Carroll v. U.S.*

ANS: c

3. _____ is the case in which the Supreme Court first barred the use of evidence secured through illegal search and seizure in federal prosecutions.

- a. *Weeks v. U.S.*
- b. *Won Sun v. U.S.*
- c. *Mapp v. Ohio*
- d. *Carroll v. U.S.*

ANS: a

4. _____ is the case in which the Supreme Court first barred the use of evidence that is tainted from an illegal search or illegal interrogation.

- a. *Weeks v. U.S.*
- b. *Won Sun v. U.S.*
- c. *Mapp v. Ohio*
- d. *Carroll v. U.S.*

ANS: b

5. A police officer making a traffic stop is informed that the operator has an open warrant. The officer arrests the subject on the warrant and, in a search subsequent to the arrest, finds drugs on the subject. The subject is then charged with possession of a controlled substance. Upon arriving at the station it is revealed that the warrant has been recalled, but this information was not known by the officer at the time of the arrest and subsequent search. This is an example of:

- a. the fruit of the poisonous tree doctrine.
- b. application of the Exclusionary Rule.
- c. a Miranda violation.
- d. the Good Faith Doctrine.

ANS: d

6. Which of the following circumstance does NOT give a police officer the right of arrest?

- a. when the police officer personally sees someone commit a crime
- b. when an arrest warrant has been issued against an individual
- c. when a police officer has probable cause that a person has committed or is about to commit a crime.
- d. when a person runs from a police officer

ANS: d

7. In order for a police officer to make a valid search or seizure, he or she must:

- a. in all cases have a search warrant.
- b. be in that place legally.
- c. be on public property.
- d. be fully convinced of its merits.

ANS: b

8. Which of the following is NOT an example of exigent circumstances?

- a. The crime was one of violence, and the suspect is believed to be armed and dangerous.
- b. An extended search takes place at a homicide scene.
- c. There is probable cause to believe that a felony has been committed and that the suspect is in the dwelling.
- d. There is a likelihood that evidence may be removed or destroyed.

ANS: b

9. Which of the following is NOT a trigger to the Sixth Amendment right to counsel?

- a. the initiation of adversarial judicial proceedings
- b. when a formal charge is filed
- c. an arraignment in court on the charges being investigated
- d. custody

ANS: d

10. The _____ provides that those who execute the law must rely on the application of known principles or laws, and those principles must be applied uniformly and fairly to all citizens.

- a. rule of law
- b. Exclusionary Rule
- c. Exigency Rule
- d. fruit of the poisonous tree

ANS: a

11. The Exclusionary Rule is a remedy that was:
- a. first applied to the states in *Weeks v. U.S.*
 - b. part of the U.S. Constitution.
 - c. meant to protect citizens from actions by other citizens.
 - d. judicially created.
- ANS: d

12. The Court has acknowledged that an exact definition of probable cause is difficult to express because it depends on the:
- a. motives of the police officer.
 - b. totality of the circumstances.
 - c. actions of the police officer.
 - d. U.S. Constitution.
- ANS: b

13. Police officers may be justified in making a warrantless arrest of a person based on probable cause that he has committed a felony, a misdemeanor that amounts to a breach of peace in the presence of the officer, or in circumstances where the arrest power is specifically given to police officers:
- a. by statute.
 - b. by department policy.
 - c. engaged in the performance of their duty.
 - d. by warrant.
- ANS: a

14. The Fifth Amendment to the U.S. Constitution contains many protections; of concern in the area of interrogation is that it protects the right against _____ and self-incrimination.
- a. forced line-ups
 - b. interrogation
 - c. custody
 - d. compelled testimonial evidence
- ANS: d

15. Which of the following is NOT required for a defendant to waive his Miranda rights?
- a. voluntarily
 - b. by signature
 - c. knowingly
 - d. intelligently
- ANS: b

16. The right to counsel under the Sixth Amendment and the _____ of the Fourteenth Amendment prohibits law enforcement officers from deliberately eliciting incriminating information from a defendant in the absence of counsel after a formal charge against the defendant has been filed, regardless of whether or not the defendant is in custody.
- a. Due Process Clause
 - b. exigent circumstances
 - c. Equal Protection Clause
 - d. Right to Property Clause
- ANS: a

17. The right to an attorney under the Fifth Amendment Miranda rule attaches the right to consultation with an attorney _____ and is concerned with police custody of the person.

- a. prior to an interrogation
- b. prior to speaking with a parole officer
- c. prior to a flood
- d. prior to the offense

ANS: a

18. The Supreme Court, through this case, established the automobile exception to the search-warrant requirement.

- a. *Steagald v. U.S.*
- b. *Carroll v. U.S.*
- c. *Weeks v. U.S.*
- d. *Mapp v. Ohio*

ANS: b

19. In order to arrest a person believed to be in the dwelling of a third party, absent exigent circumstance,:

- a. an arrest warrant must be obtained.
- b. a search warrant must be obtained.
- c. both an arrest warrant and a search warrant must be obtained.
- d. consent must be obtained.

ANS: c

20. In order to detain a suspect and take him to the police station for interrogation, the police must have:

- a. probable cause for an arrest.
- b. a suspect who comes voluntarily .
- c. both a and b.
- d. either a or b.

ANS: d

21. The best-known example of an exigent circumstances that might justify entry into a dwelling to make an arrest without a warrant is:

- a. hot pursuit.
- b. a pregnant woman.
- c. a flood.
- d. a fire.

ANS: a

22. Which of the following is NOT an example where the Fourth Amendment may forbid entry into a dwelling to effect an arrest without a warrant, regardless of how likely the evidence is to be lost or destroyed?

- a. pursuit of a drunk driver
- b. pursuit of an underage driver
- c. a fleeing misdemeanor
- d. a domestic assault

ANS: d

23. When is a confession NOT considered to be coerced?

- a. when police promise leniency
- b. when the police use deception
- c. when threats are made to arrest members of a suspect's family
- d. when physical pressures unduly influence the accused to make a statement

ANS: b

Chapter 11: Confessions

Chapter Overview

The focus of this chapter is on police interrogation and dispelling myths associated with the practice. One view of interrogations is that false confessions constitute a major problem in our society, despite Miranda reforms to curtail coercive police-interrogation practices. While false confessions may occur, they appear to be rare instances rather than due to normal police practices. A second view on interrogations is that they often lead to confessions. This is logical because the attempted interrogations appear to be successful; however, the evidence suggests that fewer interrogations are actually attempted than are possible. This chapter provides an in-depth discussion of interrogation and the issues that affect its success—the reasons why some suspects confess and others do not.

During the interrogation, officers should be aware of the pitfalls leading to false confessions. Therefore, a discussion of false confessions is included. Methods of improving the interrogations are an important focus. Crime-specific examples are provided to illustrate that interrogation, like interviewing, is a flexible process that may be tailored to the crime.

Common myths surrounding interrogations and police practice are the final focus. The common misconceptions may provide additional discussion and lead to increased class participation.

Instructor Notes

1. **Interrogations Since Miranda**

The police have been compliant with the rules of Miranda. Studies on the value of interrogation suggest that interrogations leading to confession are common and that American police officers are good at obtaining those confessions during interrogation.

For a confession to be admitted as evidence against the suspect as proof of guilt, the opportunity to interrogate must have been lawfully obtained. There must be an absence of force, threat of force, or promise of leniency. There must be compliance with requirements for warnings of constitutional rights to a custodial suspect.

What exactly is an interrogation? It is the questioning of a suspect that is initiated by law-enforcement officers after a person has been taken into custody or otherwise deprived of his or her freedom of action in any significant way. In some cases an interrogation might be conducted prior to the person being taken into custody.

2. **Confessions versus Admissions**

Measuring the successes of interrogation is difficult due to the different types of statements. There are *confessions* and *admissions*, and statements can be written, verbal, or electronically recorded.

Studies on the importance of confession in prosecution vary significantly. When the evidence is weak, the confession may be the main evidence used at trial for conviction. Between 12 percent and 8 percent of cases rely on confessions for conviction. A noted problem is that the police are not consistent in attempting to corroborate evidence from a confession.

Confession: The suspect admits to having committed the crime and provides evidence of his or her guilt.

Admission: The suspect admits to some part of the act or being present prior to, during, or after the act, but denies the wrongdoing or the intent of the crime.

3. **Interrogations Since Miranda**

Most confessions occur during *custodial interrogation*, when the suspect is formally in police custody and is not free to leave.

A lesser-discussed form of confession occurs when statements are taken and the suspect is not in custody. The *non-custodial confession* is admissible only when the constitutional requirements of Miranda have not been violated. Suspects frequently waive their rights and choose to speak to interrogators since Miranda has been required. Suspects continue to provide confessions despite being warned of their rights.

Custodial confession: Requires strict adherence to the constitutional guidelines and requirements of Miranda.

Non-custodial confession: No Miranda warnings are required when the interrogation does not involve custody of the suspect.

4. **Reasons People Confess**

The question is always asked: “Why do people waive their rights and confess to the police? It is not in the suspect’s best interest to do that.” Some say it is because the police use techniques that are designed to obtain waivers.

Several things seemed to be linked with the probability that a person will waive his or her rights per Miranda and provide a statement to the police. Some common factors associated with confession include *age, gender, ethnicity, and prior convictions*.

There are also psychological factors associated with why people confess also. These include the following:

- Suspect paranoia
- Guilt and remorse
- Perception of consequences

Factors associated with confessions include:

- *Age:* There is some evidence that younger suspects are more likely to confess to the police during interrogation.
- *Gender:* The majority of suspects are male; however, one large study found that females confess more frequently than males.
- *Ethnicity:* Caucasians appear to confess more readily than black or Asian suspects.
- *Prior convictions:* Suspects with prior felony records are least likely to waive their rights.
- *Suspect paranoia:* Because they are never sure of exactly what information investigators have, suspects may attempt to give false information to lead investigators in another direction.
- *Guilt and remorse:* Suspects confess to overcome feelings of guilt and remorse, as well as the fear of retaliation or of losing love.
- *Perception of consequences:* A suspect becomes entangled in the decision of whether to speak or invoke the rights to silence and to an attorney, making those

decisions based on their perceived probability of the long- and short-term consequences

5. What Are False Confessions?

Experts know that *false confessions* can and do occur. Yet there are no solid estimates of the rate of false confessions. A lengthy interrogation of the suspect, 16.3 hours on average, is a common factor in those cases that have been proven to be false confessions.

False confessions: A false confession is a written or oral statement acknowledging guilt, made by one who did not commit the crime. The primary cause of wrongful conviction is mistaken identification. The second most common cause is false confessions.

The crimes that are associated with false confessions are major crimes that invoke emotion. Rape, robbery, and murder are examples. There is a high motivation to solve these crimes, which may add to the pressure that is placed on the police officers that are tasked with solving them.

Experts claim that these crimes cause police officers to become so emotionally involved in solving the crime that they develop tunnel vision. To avoid this pitfall, keep enough of an open mind to solve the crime based on evidence and exhaust all possible leads. Always follow up a confession with a search for evidence to corroborate the statement. Be cautious when the statement does not match the crime facts.

Look for the factors that are associated with false confessions:

- Low intelligence
- Persons with mental disabilities
- Juveniles

6. Types of False Confessions

The *voluntary* false confession can occur without any influence or pressure from the police. The *internalized* false confession occurs when the person actually believes that he or she committed the crime. The *compliant* false confession is one that can be avoided. Can you imagine the tragedy of being responsible for the wrong person being convicted?

Voluntary false confessions: A person may voluntarily confess to escape an aversive situation, to avoid an explicit or implied threat, and/or to gain a promised or implied reward. The suspect perceives immediate gains that outweigh the long-term consequences.

Compliant false confessions: Becoming compliant under the pressures of an interrogation and falsely admitting to a crime can occur in cases of physical or psychological torture.

Internalized false confessions: There are people who will admit to a crime that they did not commit because they are susceptible to believing they committed the crime.

Short-Answer Questions

1. Explain the early impact of Miranda warnings on police interrogation. Early studies on the impact of the Miranda warnings were mixed: A Yale study concluded that the warnings were largely ignored by police and wholly ineffective, while some concluded that their application did not decrease the percentage of felony complaints and others claimed a large decrease in felony cases that reached the grand jury.

2. Explain the three types of police officer depicted in Schaefer's studies.

Law enforcers are officers who score highest in their knowledge of the legal applicability of Miranda. These officers feel their role is one of crime control and are most aware of the procedural guarantees that should be extended.

Servicers are officers who perceive their role in criminal justice as primarily aiding the public in any way possible. These officers scored lowest in their knowledge of the legal applicability of Miranda.

Law enforcers/servicers is a mixture of the other two classifications.

3. Discuss *plea-bargaining*. What are the potential benefits to the suspect? What are the potential benefits to the state?

Plea-bargaining promotes administrative efficiency in the courts in the following ways:

- Saves tax dollars
- Insures prompt correctional measures
- Promotes rehabilitation
- Reduces humiliation and misery of defendants
- Can result in lesser punishment

4. List and explain the three major categories of *false confessions*.

Voluntary false confessions: People may voluntarily give a false confession due to a pathological desire for notoriety; a conscious or unconscious need to relieve guilt over prior wrongdoings; an inability to distinguish fact from fantasy; and/or a desire to aid and protect the real criminal.

Individuals offer voluntary false confessions without any external pressure from the police.

These people simply turn themselves in to the authorities, claiming they have committed a crime.

Compliant false confessions: In order to escape an aversive situation, avoid an explicit or implied threat, or gain a promised or implied reward, some suspects will confess falsely. Examples of this are found in cases of physical or psychological torture. Coerced-compliant false confessions may result from pressures during the interrogation process. Since the suspect perceives immediate gains that outweigh long-term consequences, he or she will confess despite knowing that he or she did not commit the crime.

Internalized false confessions: Some suspects are susceptible to believing during interrogation that they committed the crime, even though they did not. Persons who are particularly vulnerable are those who are young, tired, confused, suggestible, and exposed to false information.

5. *Subtle compulsion, traffic stops*, and use of *stop and frisk* are not considered interrogation. Why not?

Subtle compulsion is a minimal amount of duress that drives someone to do or say something. It does not amount to an interrogation unless it can also be shown that a suspect's incriminating response is the product of words or actions on the part of police that they should have known were reasonably likely to elicit an incriminating response (Innis, 1980).

The roadside questioning of motorists detained pursuant to a *routine traffic stop* does not constitute "custodial interrogation" for the purposes of the Miranda rule (Innis, 1980). Although an ordinary traffic stop curtails the "freedom of action" of the detained motorists and imposes some pressures on detainees to answer questions, such pressures do not sufficiently impair detainees' exercise of their privilege against self-incrimination to require that they be warned of their constitutional rights. Traffic stops are usually brief, and motorists expects that, while they

may be given a citation, in the end they most likely will be allowed to continue on their way. Moreover, the typical traffic stop is conducted in public, and the atmosphere surrounding it is substantially less “police dominated” than that surrounding the kinds of interrogation at issue in *Miranda* and subsequent cases in which *Miranda* has been applied.

A police officer may stop a person in order to question him or her if the officer has a reasonable suspicion that the person is engaged in criminal activity. For self-protection, the officer can at the same time carry out a limited pat-down search for weapons, which is called a *frisk*. This is not a custody situation, nor is this considered a search. No *Miranda* rights are required.

6. In most cases, officers conducting interrogations use three successful psychological strategies to predispose a suspect to voluntarily waive his or her *Miranda* rights. What are they? What do police officers hope to achieve in each instance?

Conditioning is done with the goal of setting up the interrogation so that the suspect will respond favorably to questions. One approach noted was to walk to the jail and meet the suspect, politely introduce oneself to the suspect, and apologize for handcuffing him or her. Inquire about the suspect’s physical condition and walk him or her out of the jail to the interrogation room. At the interrogation room, the suspect is provided with coffee and possibly a newspaper and politely asked if there is anything else that is needed. The suspect is then left in the room for 15 to 20 minutes, a strategy to enhance the suspect’s desire to talk with the police. Routine booking questions are asked politely when the officer returns. When reading the *Miranda* rights to the suspect, the detective nods his head up and down to suggest agreement.

De-emphasizing refers to the strategy of minimizing the potential importance of issuing the *Miranda* rights to the suspect. The detective may blend the rights into the conversation in a way that makes them casual and little more than a procedure that must be followed so that the suspect can speak. Another method of de-emphasizing calls attention to the warnings and implicitly suggests that they are unimportant. The officer may joke about the well-known rights that the subject probably has heard on television many times.

Persuasion is an explicit attempt to convince the suspect to waive his or her rights, per *Miranda*, in a way that is subtle and non-coercive. The officer may tell the suspect that there are two sides to every story and that the suspect’s side can only be told if he or she waives the right to silence, adding that the victim’s allegations will become the official version of the event unless the suspect speaks.

7. Outline the proper approach for interrogating suspects in cases of child pornography. How does this differ from other interrogation styles?

The proper approach for interrogating suspects in cases of child pornography follows:

- Make a direct accusation statement that is convincing in its delivery to the suspect; interrupt and dismiss denials.
- Avoid using judgmental terms and use interrogation themes (RPMs). Theme development offers suspects a logical reason why they committed the crime by excusing their behavior.
- Rationalize the crime (e.g., “I understand your situation; you love kids so much and you never meant to hurt anyone.”).
- Project the blame onto others (e.g., “The problem is that parents don’t spend enough time with their children.”).

- Minimize the offense (e.g., “We’re not talking about hurting children here. We’re only talking about a few photographs.”).

This approach shows compassion, unlike other methods of interrogation.

8. Outline the proper approach for interrogating suspects in cases of child sexual assault. How does this work toward securing admissions from suspects?

The proper approach for interrogating suspects in cases of child sexual assault include give suspects permission to talk; don’t share any embarrassing secrets to establish rapport; and be prepared to listen. This method allows suspects to tell their side of the story.

9. Explain the Model Hate Crime Protocol (2004) used to interrogate individuals suspected of committing hate crimes.

The Model Hate Crime Protocol suggests that these specific questions be asked during an interrogation:

- How would you like it if someone like the victim moved next door?
- How do you feel about this victim?
- What did this person say or do to make you mad?
- How did the victim provoke you?
- How do you feel about this person or group?
- Was this your idea?
- Has the victim’s group hurt you or your friends?

10. Why is the timely identification of the offender especially important in sexual assault cases? How does this affect the gathering of evidence?

When the offender identification is made within a reasonable period of time, the collection of evidence from the suspect’s body and clothing contributes to a successful interrogation and aids in solving the sexual assault crime.

Evidence such as pubic and head hair samples, body fluids (dried and wet), and articles of clothing can be used as comparative or reference samples with hair, fibers, and fluids found on the victim. Photographs of scratches or bruises on the perpetrator may be indicative of victim resistance and also can be used to notify the suspect of your knowledge.

Fill-In Questions

1. There exists a balancing act concerning interrogations that involves providing _____ to the guilty without jeopardizing the _____ of the innocent. (protections; safety)
2. The Miranda safeguards come into play whenever a person _____ is subjected to either explicit questioning or its _____. (in custody; functional equivalent)
3. The police interrogator must possess a high degree of emotional _____ and feel comfortable using persuasive tactics that may be morally offensive to some. (control)
4. There was no significant statistical difference between persons who waived their rights and those who do not in either subsequent _____ or _____. (charging; severity of punishment)

5. In cases of proven false confessions a common factor is a _____ of the suspect. (lengthy interrogation)
6. Police officers may inadvertently _____ confessions by relying on questions that contain crime scene data. (contaminate)
7. The approach of the interrogator differs slightly different based on the _____ as well as the personality of the interrogator. (offense that was committed)
8. Child molesters are more likely to respond to a _____ approach used to overcome their inhibition to confess, most of them will talk to the police. (sensitive)
9. Sex offenders generally tend to _____ more than other suspects because of a strong internal need to confess; despite their feelings of shame. (confess more frequently)
10. Evidence of sexual assault may be collected from the body of the suspect without a warrant if the suspect has been arrested and probable cause exists for the seizure of the suspect's clothing and documenting of injuries as a search _____ due to exigent circumstances. (incident to arrest)

Exercises

1. *What's my lie?* In this exercise, a panel of three people is assigned to leave the room. Outside of the room, something about one of the individuals is selected as the "story" (for example, "I went whitewater rafting through the Grand Canyon"). The details of the story are shared with the other two panelists. The panel returns to the room and each person recounts the story. They are then "interrogated" by the class. Which two are lying? How can you tell? Why?
2. *What's my lie?* The class breaks into pairs. One person is the interrogator and the other is the suspect. The suspect comes up with a story of something he or she did (for example, "This morning I made a great cappuccino!"). The interrogator needs to determine whether the person is telling a lie.

True/False Questions

1. The roadside questioning of a motorist detained pursuant to a routine traffic stop does not constitute "custodial interrogation" for the purposes of the Miranda rule.
ANS: T
2. A police officer may stop a person for questioning if the officer has probable cause that the person is engaged in criminal activity.
ANS: F
3. A stop and frisk is not a custody situation, nor is it considered a search. No Miranda rights are required.
ANS: T
4. The Model Hate Crime Protocol suggests asking the suspect, "What did this person say or do to make you angry?"
ANS: T

5. The approach of the interrogator will be slightly different based on the offense that was committed as well as the personality of the interrogator.

ANS: T

6. Evidence of sexual assault may be collected from the body of the suspect without a warrant if the suspect has been arrested and probable cause exists for the seizure of the suspect's clothing and documenting of injuries as a search incident to arrest due to exigent circumstances.

ANS: T

Multiple-Choice Questions

1. Which of the following studies showed the early impact of Miranda warnings on police interrogation?

- a. The warnings were largely ignored by police and wholly ineffective.
- b. Application of Miranda warnings did not decrease the percent of felony complaints.
- c. Following *Miranda*, there was a notable decrease in felony cases that reached the grand jury.
- d. The results of early impact studies were mixed, and all of the above were suggested.

ANS: d

2. Which one of the following categories was NOT one of the three types of police officers depicted in Schaefer's studies circa 1971?

- a. law enforcers
- b. servicers
- c. responders
- d. law enforcers/servicers

ANS: d

3. Which of the following is NOT one of the potential benefits of plea-bargaining for the suspect?

- a. promotes rehabilitation
- b. keeps families together
- c. can result in lesser punishment
- d. reduces humiliation and misery of defendants

ANS: a

4. What is the potential benefit of plea-bargaining for the state?

- a. saves tax dollars
- b. promotes a safer society
- c. puts more people behind bars
- d. avoids consequences of false confessions

ANS: a

5. Which of the following is NOT one of the three major categories of false confessions?

- a. voluntary false confessions
- b. compliant false confessions
- c. tortured false confessions
- d. internalized false confessions

ANS: c

6. _____ is a minimal amount of duress that drives someone to do or say something.

- a. Subtle compulsion
- b. A traffic stop
- c. Stop and frisk
- d. Conditioning

ANS: a

7. Which of the following does NOT amount to an interrogation unless it can also be shown that a suspect's incriminating response is the product of words or actions on the part of police that they should have known were reasonably likely to elicit an incriminating response?

- a. subtle compulsion
- b. a traffic stop
- c. stop and frisk
- d. conditioning

ANS: a

8. A police officer may stop a person in order to question him or her if the officer has a reasonable suspicion that the person is engaged in criminal activity. For self-protection, the officer can carry out a limited pat-down search for weapons. This is called a:

- a. search.
- b. stop.
- c. frisk.
- d. violation.

ANS: c

9. An ordinary traffic stop by the police does not require Miranda warnings because:

- a. it is usually brief.
- b. it is conducted in public.
- c. the motorist expects to be allowed to continue on his or her way.
- d. all of the above.

ANS: d

10. This psychological strategy is done with the goal of setting up the interrogation so that the suspect will respond favorably to questions.

- a. de-emphasizing
- b. conditioning
- c. persuasion
- d. all of the above

ANS: b

11. Which of the following refers to the strategy of minimizing the potential importance of issuing the Miranda rights to the suspect?

- a. de-emphasizing
- b. conditioning
- c. persuasion
- d. all of the above

ANS: a

12. This is an explicit attempt to convince the suspect to waive his or her rights per Miranda in a way that is subtle and non-coercive.

- a. de-emphasizing
- b. conditioning
- c. persuasion
- d. all of the above

ANS: c

13. How does the approach for interrogating suspects associated with child pornography differ from other interrogation styles?

- a. This approach shows compassion.
- b. This approach involves a direct accusation.
- c. This approach is non-judgmental.
- d. This approach attempts to rationalize the crime to the offender.

ANS: a

14. Which of the following is NOT a recommendation for interrogating suspects associated with child sexual assault?

- a. Give the suspect permission to talk.
- b. Share an embarrassing secret to establish rapport.
- c. Be prepared to listen.
- d. Avoid expressing anger, disgust, or disdain.

ANS: b

15. The Miranda safeguards come into play whenever a person _____ is subjected to either express questioning or its functional equivalent.

- a. in custody
- b. under arrest
- c. being searched
- d. who has been stopped

ANS: a

16. The police interrogator must possess a high degree of _____ and feel comfortable using persuasive tactics that may be morally offensive to some investigators.

- a. humor
- b. intelligence
- c. emotional control
- d. detachment

ANS: c

17. There was no significant statistical difference between those who waived their rights and those who did not in either subsequent charging or:

- a. time in jail.
- b. severity of punishment.
- c. admonishment by the judge.
- d. suicide.

ANS: b

18. In cases of proven false confessions, a common factor was _____ of the suspect.

- a. torture
- b. physical duress
- c. hunger
- d. lengthy interrogation

ANS: d

19. Police officers may inadvertently _____ confessions by relying on questions that contain crime scene data.

- a. spoil
- b. suppress
- c. contaminate
- d. originate

ANS: c

20. Child molesters are more likely to respond to a _____ used to overcome their inhibition to confess.

- a. confrontational approach
- b. sensitive approach
- c. direct approach
- d. manipulative approach

ANS: b

21. _____ generally tend to confess more frequently than other suspects because of a strong internal need to confess, despite their feelings of shame.

- a. Hate crime perpetrators
- b. Torturers
- c. Petty thieves
- d. Sex offenders

ANS: d

Chapter 12: Techniques for Interrogation

Chapter Overview

The primary focus of this chapter is on the primary and secondary goals of interrogation and the methods of reaching these goals. A distinction is drawn between the non-custodial interrogation and custodial interrogation situations. The three-stage approach to controlling the interrogation is broken down into preparation, assessment, and getting the confession.

There are many ways to approach an interrogation; these are covered in a way that leaves the student with options for developing a style that works best for that individual. The preparation phase emphasizes that interrogator control be established through knowledge of the law, of the case specifics, and through the timing and location of the interrogation. The assessment phase considers examples that can cause resistance to interrogation and presents methods to overcome them. In getting the confession, Phase III, style and approach are stressed.

Instructor Notes

1. **Interrogation Phase I: Preparation**

Step 1: Know the case: Being familiar with the information may assist the interrogator in determining when the suspect is lying.

Step 2: Determine the prior record: Conduct a full background check in addition to a check for outstanding warrants.

Step 3: View the scene: When possible, the interrogator should visit the scene to make a personal assessment of the facts. Sometimes it is necessary to rely on information from fellow police officers, such as when the car was recovered.

Step 4: The timing: Everything that is done throughout the contact with the suspect is purposeful and goal-oriented. The timing was chosen by taking advantage of the suspect's heightened emotional state. The suspect now viewed the interviewer as someone he or she could talk to.

Step 5: Determine who will interrogate: This step is as purposeful as the other steps. If the officer does not have any relationship (positive or negative) that would facilitate an interrogation, the officer might step back and have someone else do the interrogation. When short of manpower, you would become the documentation part of the team.

2. **Phase II: Develop Outcome-Based Tactics**

In this next topic are some of the persuasive arguments designed to overcome the resistance of a guilty suspect to confess. Familiarity with these tactics provides the opportunity for the interrogator to control the interrogation. *These are not hit-or-miss things to try in the interrogation room.* The suspect is assessed for his or her vulnerabilities, and purposeful application of one or more of the tactics is used.

The most-frequent tactic used in interrogation is an *appeal to the suspect's self-interest*. Remember the previous topic? Empathizing with the suspect's dilemma immediately after the arrest made it easy for the suspect to feel at ease in speaking with the interviewer.

Appeal to the suspect's self interest: Encourage the suspect to “get it off your chest” or to “take this opportunity for your side to be heard.” Empathize with the dilemma that the suspects face or convince them that their best option is to cooperate with the police.

Confront the suspect with existing evidence of guilt: This may involve lying to suspects about physical evidence that demonstrates they committed the crime. Lying about physical evidence that does not exist is generally permissible, but it will be scrutinized by the court.

Sufficient evidence for arrest:

- If the suspect does not think that the interrogator has sufficient evidence for arrest, he or she may be reluctant to provide that information during an interrogation
- Possible fear to overcome is the fear of arrest.
- A decision may be made to delay the arrest.
- State that “the facts of the case speak for themselves,” and “you only have the option of cooperating at this point.”

Identify contradictions in the suspect's alibi or story: The term “because” may be used as a persuasive word. Tell the suspect that he or she committed the crime *because*... Give examples.

Ask specific behavioral-analysis interview questions: Look for the behavioral indicators of nervousness, sweating, or frequent licking of lips or wiping of eyebrows. The guilt-ridden offender may be unwilling to look the interrogator in the eye. The apathetic offender will show defiance by looking the interrogator in the eye with denial.

Appeal to the importance of cooperation: Suggest that suspects face the repercussions of the criminal act and that they start over through cooperation. Alternatively, minimize the repercussions and be compassionate. It is not acceptable to promise leniency.

Offer moral justifications and face-saving excuses: Minimize the crime and never refer to it by legal terms. Encourage the suspect to express guilt, remorse, or anger toward the victim.

Confront the suspect with false evidence of guilt: The suspect who played a minor part will be fearful of taking all of the blame. Suggest that the evidence points to him or her and that this is the chance to share the blame with others.

Praise or flatter the suspect: Look for evidence that the suspect is insecure. Did the suspect appear to take pleasure in the act? Praise and supportive statements convey a positive judgment to the suspect.

Appeal to the detective's expertise and authority. This requires an over-confident approach by the interrogator. It puts emphasis on the status of the interrogator and downplays the ability of the suspect to get away with the crime. It is used to break down the confidence of the suspect.

3. Phase III: Getting the Confession

Conducting an interrogation is exhausting. Your mind is constantly thinking of the ways to get to the information that you want. Following are a few basics on interrogation that are worth mentioning:

- Leave all weapons outside of the interrogation room.
- Don't verbally back the suspect into a corner.
- Don't invite a denial, ask for an explanation.
- Don't interrogate a handcuffed suspect.
- Avoid initial antagonizing.
- Don't make a cross-examination confrontation.
- Don't be solicitous or friendly.

- Don't be afraid to stop without the confession.

Step 1: Make the claim: In order for the interrogation to start, the interrogator begins with the claim of guilt. Be honest. Making the claim may involve a statement that the interviewee is the suspect in the crime, or it may be more direct. Remember to get the suspect talking. Do not afford any respect to the suspect by using any title he or she may have. Address the suspect by first name only. Do not shout or show anger; anger is a sign of weakness. Be in close proximity to the suspect so that your presence is felt and his or her space is invaded. You are in control.

Step 2: Lock it in: This means that there is no longer the opportunity for the suspect to talk about innocence. Use the tactics outlined in this lesson for obtaining a confession. After two hours, if the suspect is not giving information helpful to solving the case, consider stopping the interrogation and going back to interviewing others and searching for evidence.

Short-Answer Questions

1. Explain what the *complementary principle* can mean to the potential investigator. The *complementary principle* suggests that the interpersonal style of one individual can influence the reaction of another and bring about an expected set of responses. Potentially, an astute interrogator can persuade a suspect through knowledge of the expected pairings that occur during human interactions.

2. Explain the difference between a *confession* and an *admission*. A *confession* is a statement made by a defendant disclosing his or her guilt of the crime with which he or she is charged and excluding the possibility of a reasonable inference to the contrary (*People v. Anderson*, 1965). An *admission* is a statement of guilty conduct, containing only facts from which guilt may be inferred (*Anderson*, 1965).

3. In what three ways can the interrogation process become compromised if an investigator puts all of his or her energy into obtaining a confession rather than collecting evidence? This single-mindedness may result in:

- Overlooking evidence that exonerates the suspect
- Taking extreme measures to obtain the confession
- Losing the case, if the confession is not admitted and corroborating evidence had not been obtained

4. Discuss the concept of having two people conduct an interrogation. Why should one person do most of the interrogating? What should the other person focus on? Ideally, two persons should be in the room with the suspect during the interrogation, but one should do the majority of the questioning. There are several reasons for this arrangement. The primary reason is for officer safety. Second, having two persons in the room allows for flexibility in the interrogation. If the suspect is not responding to the primary questioning officer, then roles can be switched.

Another reason is that the second interrogator can take detailed notes, freeing the primary interrogator from that responsibility. The note-taker should seat him or herself behind the suspect and slightly to one side, within sight of the primary interrogator but outside the line of vision of the suspect. This is done so as not to distract the suspect during the interrogation.

5. Explain how *non-custodial* and *custodial interrogations* differ with regard to Miranda warnings.

Non-custodial interrogation: The suspect must be fully aware that he or she is free to leave at any time. The awareness may be based on the location of the interrogation and the attitude of the interrogator. No Miranda rights are required without custody. Follow-through by not arresting the suspect is suggested when appropriate.

Custodial interrogation: The suspect is under arrest or is not free to leave because arrest is impending, and the offender must be given his or her rights per Miranda. The suspect must understand these rights and make an intelligent, knowing, and voluntary waiver of these rights before an interrogation can take place.

6. State two reasons why an interrogator should know the case thoroughly prior to conducting an interrogation.

The interrogator should know the case thoroughly in order to obtain information from all persons involved in the investigation and to determine the appropriate charges for which the suspect is being interrogated.

7. What is the value of conducting a background check on the suspect prior to the interrogation?

Conducting a background check on the suspect can reveal a prior record for the same offense, which might affect charging.

8. What can be gained from the interrogator viewing the scene prior to the interrogation?

Conducting the search of the scene for physical evidence prior to the interrogation can serve to produce undisputable facts that are brought into the interrogation itself. Conducting a search for evidence is as important as the interrogation. Faced with physical evidence that points to guilt, the perpetrator may be less likely to deny the charges.

9. What are some of the factors that might influence the timing of the interrogation?

The suspect should be confronted as soon as is practical in order to avoid knowledge of the investigation and the opportunity to make up an alibi or justify the offense. Situations that may cause a delay in the interrogation include passage of time since the crime, existence of multiple victims, previous relationship between the alleged offender and the officer, and the need to execute a search warrant.

10. List three suspect fears that can cause resistance to interrogation.

Shame: The fear may be related to the category of crime that the suspect is accused of committing. The concern for the suspect is that, in divulging the particulars of the crime, he or she will lose respect, shock family or friends, or suffer embarrassment. If the case involves sexual or physical abuse of children, or other immoral acts, this is particularly true. The person who was victimized was likely known to the perpetrator, so guilt is likely high.

Loss of job: If the individual has status in the community or a well paying job, he or she may fear losing that employment as a result of being arrested. Fear that admitting guilt will have financial repercussions is a real concern.

Fear of arrest: The fear of being arrested is equally high for those who have had little contact with the police as it is for those who have been arrested before. Suspects who have prior arrests may fear the laws that mandate jail for multiple arrests. Those with no previous contact with the police fear the consequences of arrest.

Fill-In Questions

1. According to the _____, humans interact within the two frameworks of dominance and friendliness. (complementary principle)
2. The primary purpose of the interrogation is to _____ from the suspect that acknowledges or indicates the guilt of that person. (obtain a statement)
3. A(n) _____ is a statement of guilty conduct containing only facts from which guilt may be inferred. (admission)
4. The interrogation should take place when the _____. (guilt of the suspect is fairly certain)
5. An interrogation is not an option after the individual _____ on the crimes under investigation or asks to speak to an attorney. (is arraigned)
6. It is necessary to _____ and plan for an interrogation. (prepare)
7. The interrogation is intentionally _____. (accusatory)
8. Develop _____ tactics prior to conducting an interrogation. (outcome-based)
9. One thing that an innocent person has in common with a guilty person is that they may both _____. (deny having committed the crime)

Exercises

1. Non-custodial versus custodial interrogation:
 - List the differences between a non-custodial and a custodial interrogation with regard to Miranda warnings.
 - Describe three non-custodial situations. Are Miranda warnings required for these situations? Why or why not?
 - Describe three custodial situations. Are Miranda warnings required in these situations? Why or why not?

The victim statement for the following exercises is given in “Been There ... Done That” 12-4. Refer to figures 12-4 and 12-5 as the evidence for this exercise.

2. Complete each step of interrogation Phase I: Preparing. Describe in writing what you did for each step and justify any decisions that you make. For step 3 go to the law library or online and find the statute that defines all of the possible crimes for your state regarding this case. Write down the information on all of the possible crimes. The following site is a place to look for the criminal code in your jurisdiction:
http://straylight.law.cornell.edu/topics/state_statutes2.html#criminal_code.
3. Complete interrogation Phase II: Developing Outcome-Based Tactics. Consider the obstacles that may be present in this case scenario. How might they be overcome? What tactics

would be beneficial for persuading the suspect to provide a confession? What fears might the suspect have about what he did?

4. Without actually questioning anyone, determine the approach you would take to make the claim of guilt and how you would lock the suspect into it. Explain your reasoning.

True/False Questions

1. The primary purpose of the interrogation is to document the lies.

ANS: F

2. The primary interviewer in a two-person team should take the notes during an interrogation.

ANS: F

3. It is generally accepted that the passage of time makes it more difficult to solve the crime.

ANS: T

4. The more a person denies something, the more they begin to believe in their own innocence.

ANS: T

5. State courts are beginning to express a preference that interrogations be recorded whenever practicable in custodial interrogations.

ANS: T

Multiple-Choice Questions

1. The primary purpose of the interrogation is to:

- a. obtain the truth.
- b. document lies.
- c. get the bad guy.
- d. arrest the villain.

ANS: a

2. In *People v. Anderson* (1965), the court defined _____ as a statement made by a defendant disclosing guilt of the crime with which he or she is charged and excluding the possibility of a reasonable inference to the contrary.

- a. confession
- b. admission
- c. interrogation
- d. criminal code

ANS: a

3. In *People v. Anderson* (1965), the court defined _____ as a statement of guilty conduct, containing only facts from which guilt may be inferred.

- a. confession
- b. admission
- c. interrogation
- d. criminal code

ANS: b

4. Which of the following Constitutional amendments is NOT involved in providing guidance on confession admissibility?

- a. Fourth Amendment
- b. Fifth Amendment
- c. Sixth Amendment
- d. Tenth Amendment

ANS: d

5. Why is conducting the search of property for physical evidence prior to the interrogation important to an interrogator?

- a. to obtain physical evidence that points to the guilt of the suspect
- b. to bring undisputable facts into the interrogation
- c. both a and b
- d. neither a nor b

ANS: c

6. Which of the following is NOT listed in your book as one of the three fears that cause resistance to interrogation?

- a. shame
- b. pride
- c. loss of job
- d. fear of arrest

ANS: b

7. According to _____, humans interact within the two boundaries of dominance and affiliation.

- a. interpersonal theory
- b. complementary principle
- c. dominance theory
- d. criminological theory

ANS: a

8. The _____ involves two major assumptions; first, interpersonal behaviors invite reciprocal behaviors, and second, over time these behaviors lead to a repetitive pattern of relating.

- a. interpersonal theory
- b. complementary principle
- c. dominance theory
- d. criminological theory

ANS: b

9. This approach to interrogation should not be used until the interrogator makes the assessment on whether the suspect is cooperative, mentally ill, or emotional.

- a. assertion of force
- b. slam-dunk
- c. guild ridden
- d. custodial

ANS: b

10. A non-custodial interrogation is not an option after the individual has _____ the crimes under investigation or asked to speak to an attorney.

- a. been arraigned in court on
- b. spoken to any attorney about
- c. spoken to his or her probation officer about
- d. spoken to his or her parole officer about

ANS: a

11. A knowing waiver of rights is compromised if the individual has a:

- a. mental disability.
- b. physical disability.
- c. personality disorder.
- d. both a and c.

ANS: a

12. The waiver of rights against self-incrimination can be _____ the suspect at any time.

- a. repeated by
- b. repugnant to
- c. revoked by
- d. received by

ANS: c

13. Due to their desire to maintain personal integrity, suspects should not be interrogated:

- a. at their own home.
- b. at their business.
- c. in the police station.
- d. in the hospital.

ANS: a

14. A _____ would be expected to experience a higher level of remorse, be sensitive about the effects of the offense, and be concerned what others think.

- a. guilty person
- b. guilt-ridden offender
- c. female offender
- d. clergy offender

ANS: b

15. The most common method of documenting confessions is:

- a. shouting.
- b. lying.
- c. recording.
- d. note-taking.

ANS: d

16. Both confessions and admissions are known as _____ statements.

- a. excellent
- b. inculpatory
- c. forced
- d. permissible

ANS: b

17. _____ is a term used by police and criminal investigators to describe the particular method of a criminal's activity.

- a. Modus conectus
- b. Modus operandi
- c. Slam-dunk
- d. Individualized justice

ANS: b

18. A _____ interrogation situation occurs when the suspect is NOT in police custody or under arrest.

- a. custodial
- b. preparation
- c. non-custodial
- d. suspicious

ANS: c

19. When the suspect is under arrest or is not free to leave because arrest is pending, a _____ interrogation situation occurs.

- a. custodial
- b. preparation
- c. non-custodial
- d. suspicious

ANS: a

20. The primary consideration for interrogation timing is:

- a. when a second officer arrives so that two officers are in the room.
- b. if the suspect is mentally ill.
- c. whether the suspect might be a threat to the safety of the officer.
- d. the seriousness of the case.

ANS: c

21. Which of the following is NOT mentioned as a method for obtaining the cooperation of a suspect by the interrogator?

- a. complementary principle
- b. granting of status
- c. affiliation
- d. friendship

ANS: d

22. The _____ offender is one who does not experience remorse, considers himself or herself justified in having committed the crime, and is most concerned with avoiding punishment.

- a. friendly
- b. guilt-ridden
- c. apathetic
- d. pathetic

ANS: c

23. The _____ offender would be expected to experience a higher level of remorse, be sensitive about the effects of the offense, and be concerned what others think.

- a. friendly
- b. guilt-ridden
- c. apathetic
- d. pathetic

ANS: b

24. There is one thing that an innocent man has in common with a guilty man:

- a. They both look guilty.
- b. They both deny having committed the crime.
- c. They both are involved in the crime.
- d. They both feel guilty about the crime.

ANS: b

25. According to Gudjonsson, there are five confession producing theoretical models. Which of the follow is NOT among these?

- a. the decision making model
- b. the psychoanalytic model
- c. the interaction process model
- d. the slam-dunk model

ANS: d

26. In order to avoid the controversies surrounding police interrogations, there is a trend toward requiring that interrogations be:

- a. written down.
- b. electronically recorded.
- c. witnessed by a third party.
- d. avoided.

ANS: b

Chapter 13: Juvenile Rights and Police Responsibilities

Chapter Overview

Chapter 13 addresses the challenges and legal obligations of juvenile interrogations. Defining a juvenile can be a difficult task since states are free to determine their own definitions and to subject children of varying ages to the adult criminal-justice system. Defined under federal law, a juvenile is a person who has not reached his or her 18th birthday.

In recent years the trend toward formalizing procedures involving juveniles has become a two-edged sword. With the advent of Due Process rights and an introduction of the adversarial process into the juvenile justice system, the doors also have been opened to more equal punishment.

Juvenile rights are outlined within the context of police responsibility. Specific crimes in which juvenile perpetration is of serious concern are addressed, along with suggestions for interrogation in these cases.

Instructor Notes

1. ***Parens Patriae***

Parens patriae is the power of the state to act on behalf of the child and provide care and protection equivalent to that of a parent, sometimes over the objection of the parent. Juvenile justice recognizes that juveniles are not adults and as such do not automatically have Constitutional protection. Their treatment may vary from state to state. The legal rights applicable to juveniles have been expressly granted by the courts and through legislative action.

2. **Definition of a Juvenile**

Who is a juvenile?

- Under Federal law: A person who has not yet reached his or her 18th birthday
- Specified by state statutes: Typically 17 or 18 years old, but can be younger.

The Infancy Rule is the minimum age at which a child may be charged with a criminal act.

Under common law, children under the age of 7 are presumed to be without the ability to form intent. The age of responsibility now varies from state to state.

3. **Criminal-Justice Interventions**

Juveniles may be brought into the criminal-justice system as *status offenders* or *delinquents*.

Status offense: An act that would not be a crime if it were committed by an adult; it is illegal only because the child is under age.

Juvenile delinquency: The violation of a law of the United States committed by a person prior to his or her 18th birthday that would have been a crime if committed by an adult.

4. **Significant Juvenile Supreme Court Cases**

- *Kent v. U.S.* (1996) was one of the first Supreme Court cases that addressed juvenile rights.

- *In re Gault* (1967) was the most significant case in juvenile-justice history. It dealt with the Fourteenth Amendment and applied Due Process rights to juveniles facing possible commitment.

5. Questioning a Juvenile

Juveniles can be approached informally and asked questions without a parent being present when police custody is not involved.

Factors that negatively affect custody:

- Early-morning or late-evening demands to report to the police station
- An interrogation where the juvenile is not appropriately clothed or is denied food or water
- Promises to let the suspect go if a confession is provided

Questioning a juvenile who is in custody requires that Miranda rights be provided and that they be waived under the same conditions as with an adult. Police in some states are required to obtain a waiver from a parent (or legal guardian).

Short-Answer Questions

1. Compare the absolute rights afforded an adult versus those afforded a juvenile. Why is there a difference?

Under the notion of *parens patriae*, the power of the state over children is absolute, and juvenile rights are provided at the whim of the court. Juveniles are not adults; as such, they do not automatically have constitutional protection. The rights that are applicable to juveniles have been expressly granted by the courts and through legislative action.

2. Explain the difference between a *status offense* and *delinquency*.

A *status offense* is an act that would not be a crime if it were committed by an adult; it is illegal only because the child is under age. If the act were committed by an adult, it would not be criminal.

A *delinquent offense* is the violation of a law of the United States committed by a person prior to his or her 18th birthday that would have been a crime if committed by an adult.

3. Explain the effect the *Kent* decision had on juvenile procedural law.

In 1966 the Supreme Court of the United States responded to the problem of non-standardized juvenile procedures and a general lack of juvenile protection with one of the first cases concerning juvenile rights. Although the *Kent* decision was confined solely to the issue of waiver proceedings in the juvenile court, its expression of disenchantment with juvenile justice has had a wide ramifications in the entire juvenile justice system.

4. Explain the effect *In re Gault* (1967) had on the doctrine of *parens patriae*.

The most important case in the history of juvenile justice is the *Gault* decision, an attack on the *parens patriae* doctrine. This one case is almost solely responsible for changing the juvenile system into an adversarial process, bringing it closer to resembling the adult system. The Supreme Court stated that Due Process and the Fourteenth Amendment of the U.S. Constitution apply to juveniles when the juvenile faces possible commitment.

5. When is a juvenile considered to be in custody with regard to questioning? What should happen when this point is reached?

The suspect must be fully aware that he or she is free to go and is not under arrest. The atmosphere should not be adversarial or lead the suspect to believe that he or she is no longer free to stop the questioning. Factors that might affect the issue of custody include:

- Early-morning or late-evening demands to report to the police station
- An interrogation where the juvenile is not appropriately clothed, and/or is denied food or water
- The absence of any offer to take a “break”
- Promises to let the suspect go only if a confession is provided

When the purpose of the interview is to elicit information that may incriminate the juvenile in criminal activity, and the juvenile might be considered to be in custody, he or she must be provided his rights per Miranda.

6. Under what conditions may police officers take juveniles into *temporary custody*? How long can the juvenile be held under these conditions?

A police officer may take a child into *protective* or *temporary custody*, typically for 48 hours, without a warrant, if there is an emergency or if the officer has reason to believe that leaving the child in the present situation would subject the child to further abuse or harm.

7. Explain the rights to counsel under the Fifth and Sixth Amendments. What are the differences?

The difference between the Fifth and Sixth Amendment rights to counsel deserves emphasis. The Fifth Amendment right attaches during all custodial interrogation. The Sixth Amendment right is not triggered by custody but rather by the initiation of adversary judicial proceedings. These begin when a formal charge is filed.

8. Discuss the scope of juvenile *fire setting/arson*. How does it compare to other forms of juvenile delinquency?

Arson is the crime most frequently committed by juveniles; left untreated, the probability that the child will set another fire is more than 80 percent. The problem of juvenile arson is staggering. Approximately half of all arrests for arson involve a juvenile. Fires set by juveniles claim the lives of approximately 300 people and destroy more than \$300 million worth of property each year.

9. List the steps taken to interview a suspected juvenile sex offender. What role should social services agencies play?

Step 1: Introduction: Explain to the juvenile who you are and why you are speaking with him or her. Establish credibility with the child by telling him or her that you frequently talk with people about things that have happened with children and families.

Step 2: Rapport-building: This is an important step for the juvenile interrogation as well as an interview. Provide the juvenile with reasons why he or she might speak with you. Include the statement that the purpose of the interview is to learn the truth.

Step 3: Background: Explore information about the juvenile including family composition, criminal history, and employment history. During this phase the interrogator is gaining information about the functioning level of the juvenile. Determine the general educational level,

linguistic comprehension, comprehension about the process, and the presence of mental health issues. Verify the relationship of the victim to the offender and the circumstances under which access was gained to that child. Obtain an understanding of the typical eye contact and body language of the juvenile when discussing general topics.

Step 4: Allegation: Explain the allegation in very general terms; do not use legal language or speak above the level of understanding for the juvenile.

Step 5: Questioning: Ask the juvenile to explain the criminal acts that are under investigation. Move from general questions about specific topics to abuse-focused questions. Note the changes in body language and eye contact that may occur in response to specific questions or areas of inquiry. Note consistencies and inconsistencies with what is already known about the allegation.

Step 6: Closure: End the interrogation as you would an interview. Assure the juvenile that you appreciate his or her honesty even though the subject is difficult to talk about. Leave it open that you may want to speak with him or her again. Provide the supporting parent or guardian with information without going into detailed sexual behaviors. Take the time to answer questions for the parent or guardian.

Police officers have an additional legal responsibility in cases of sexual abuse, even when the perpetrator is a juvenile. In all states and the District of Columbia, a report must be filed with the appropriate social services agency on suspected child victims of abuse or neglect. Mandated reporters file the names and addresses of all victims discovered through a sexual abuse investigation.

10. How does the baseline of juvenile rights outlined by Supreme Court decisions help to mitigate the vast differences in juvenile law from state to state?

The consistent baseline is that those rights that have been afforded to juveniles by the Supreme Court of the United States. No state can infringe on these rights. The basic Fourth, Fifth, Sixth and Fourteenth Amendment rights as outlined in this chapter are applicable, and probable cause remains the standard of proof required.

Fill-In Questions

1. _____ is the power of the State to act on behalf of a child and provide care and protection equivalent to that of a parent. (*Parens patriae*)
2. The distinction between _____ and _____ is becoming more important for the police interrogator as states move toward trying juveniles in court as adults for major crimes. (juvenile; adult)
3. Children younger than the age of 7 are presumed to be without the ability to form _____ under common law. (criminal intent)
4. Initiated in 1971, the _____ developed a set of standards for juvenile justice after the *Gault* decision. (Juvenile Justice Standards Project)
5. Greater access to juvenile records mean that subsequent adult sentencing may be _____ under three-strikes laws or pursuant to sentencing guidelines in both the federal and state criminal-justice system. (enhanced)
6. The _____ investigation allows the officer the opportunity to get background information on the juvenile and collect evidence if warranted. (station)

7. A voluntary relinquishment of a right occurs when the relinquishment is the product of a free and deliberate choice rather than _____, _____, or _____. (intimidation; coercion; deception)
8. Almost half of the victims of non-fatal violent crimes are juvenile _____ of the offender. (acquaintances)
9. Indications are that one-half of adult _____ began their sexually abusive behavior as juveniles. (sexual offenders)
10. The law requires that _____ make a report to the specified agency of the names and addresses of all victims discovered through abuse investigations. (mandated reporters)

Exercises

In each of the following hypothetical cases, decide whether the subjects are juveniles and answer the questions. Go to <http://www.ncjj.org/stateprofiles/> to research juvenile law and procedure in your home state.

1. Angela is 15 years old. She and her 18-year-old brother, Daniel, go to the shopping mall together. Daniel convinces Angela to shoplift a part he needs to repair his car; she puts it in her vest. They are both caught.
 - Can Angela be tried in juvenile court? Why or why not?
 - Can Daniel be tried in juvenile court? Why or why not?
2. Richard and his friend Jill are both 17 years old. They are caught driving a car they took without permission. Richard turns 18 one week after his arraignment. Jill is found guilty at her adjudicatory hearing (trial) and, based on her prior adjudications, the court orders that she spend 20 weeks in confinement. After Jill has spent 8 weeks in confinement, she turns 18.
 - Can Richard's adjudicatory hearing (trial) take place in juvenile court?
 - Will Jill be transferred from the facility operated by the Department of Social and Health Services when she turns 18?

True/False Questions

1. The rights that are applicable to juveniles have been expressly granted by the courts and through legislative action.

ANS: T

2. A juvenile in custody is not entitled to rights per Miranda.

ANS: F

3. A police officer must possess a warrant to take a juvenile into custody.

ANS: F

4. When interrogating juvenile offenders, it is helpful for the police to confuse the subject by using "big words."

ANS: F

5. Juvenile records cannot be opened for the purposes of sentence enhancement under three-strikes laws.

ANS: F

6. The vast majority of juvenile offenders enter the juvenile justice system through law-enforcement agencies.

ANS: T

7. Juveniles can be approached informally and asked questions without parent present or Miranda warnings given.

ANS: T

8. Youthfulness may be considered a factor in the totality of circumstances when the voluntariness of a waiver of Miranda rights has been made prior to interrogation.

ANS: T

9. The federal provision states that a juvenile shall be taken before a magistrate forthwith.

ANS: T

Multiple-Choice Questions

1. A _____ is an act that would not be a crime if it were committed by an adult; it is illegal only because the child is under age.

- a. delinquent offense
- b. status offense
- c. criminal act
- d. civil act

ANS: b

2. A _____ is the violation of a law of the United States committed by a person prior to his or her eighteenth birthday that would have been a crime if committed by an adult.

- a. delinquent offense
- b. status offense
- c. criminal act
- d. civil act

ANS: a

3. One of the first cases heard by the U.S. Supreme Court concerning juvenile rights, it addressed waiver proceedings in juvenile court.

- a. *In re Gault*
- b. *Miranda v. Arizona*
- c. *New Jersey v. T.L.O.*
- d. *Kent v. U.S.*

ANS: d

4. This one case is almost solely responsible for changing the juvenile system into an adversarial process, making it more closely resemble the adult system. The Supreme Court stated that Due Process and the Fourteenth Amendment of the U.S. Constitution apply to juveniles when the juveniles face possible commitment.

- a. *In re Gault*
- b. *Miranda v. Arizona*
- c. *New Jersey v. T.L.O.*
- d. *Kent v. U.S.*

ANS: a

5. A police officer may take a child into protective or temporary custody, typically for _____, without a warrant if there is an emergency or if the officer has reason to believe that leaving the child in the present situation would subject the child to further abuse or harm.

- a. 24 hours
- b. 48 hours
- c. 12 hours
- d. 8 hours

ANS: b

6. The juvenile's Sixth Amendment right to counsel is triggered by:

- a. custody.
- b. the initiation of adversary judicial proceedings.
- c. arrest.
- d. interrogation.

ANS: b

7. The juvenile's Fifth Amendment right attaches during:

- a. custody.
- b. custodial interrogation.
- c. the initiation of adversary judicial proceedings.
- d. arraignment in juvenile court.

ANS: b

8. _____ is the crime most frequently committed by juveniles.

- a. Arson
- b. Sexual assault
- c. Car theft
- d. Hate crime

ANS: a

9. In sexual assault investigations, police officers are mandated by law to report _____ to the designated social service agency.

- a. victims
- b. perpetrators
- c. both a and b
- d. neither a nor b

ANS: c

10. The standard of proof to arrest a juvenile is:

- a. mere suspicion.
- b. a hunch.
- c. probable cause.
- d. proof beyond a reasonable doubt.

ANS: c

11. _____ is the power of the State to act on behalf of the child and provide care and protection equivalent to that of a parent.

- a. Parens protector
- b. Criminal law
- c. Civil law
- d. Parens patriae

ANS: d

12. The distinction between _____ and _____ is becoming more important for the police interrogator as states move toward trying juveniles in court as adults for major crimes.

- a. criminal; civil sanctions
- b. juvenile; adult
- c. infancy; responsibility
- d. infancy; adulthood

ANS: b

13. Under common law, children under the age of 7 are presumed to be without the ability to form:

- a. criminal intent.
- b. perfect reasoning.
- c. personal control.
- d. criminal reasoning.

ANS: a

14. Initiated in 1971, the _____ developed a set of standards for juvenile justice after the Gault decision.

- a. Department of Juvenile Justice
- b. Office of Juvenile Standards
- c. child savers
- d. Juvenile Justice Standards Project

ANS: d

15. The _____ investigation allows the officer the opportunity to get background information on the juvenile and collect evidence if warranted.

- a. station
- b. field
- c. juvenile
- d. criminal

ANS: a

16. Which of the following does NOT affect a voluntary relinquishment of a right?

- a. intimidation
- b. coercion
- c. deception
- d. free choice

ANS: d

17. Almost half of the victims of non-fatal violent crimes are _____ of the offender.

- a. parents
- b. juvenile acquaintances
- c. adult acquaintances
- d. siblings

ANS: b

18. Approximately _____ of adult sexual offenders began their sexually abusive behaviors as juveniles.

- a. 50 percent
- b. 75 percent
- c. 25 percent
- d. 90 percent

ANS: a

19. The law requires that _____ make a report to the specified agency of the names and addresses of all victims discovered through an abuse investigation.

- a. parents
- b. neighbors
- c. mandated reporters
- d. strangers

ANS: c

20. The _____ refers to the minimum age at which a child may be charged with a criminal act.

- a. criminal intent rule
- b. responsibility rule
- c. offender rule
- d. infancy rule

ANS: d

21. When a juvenile is arrested on probable cause, _____ must be contacted along with any other person required by statute in the state.

- a. a parent or guardian
- b. a neighbor
- c. a teacher
- d. an adult acquaintance

ANS: a

22. _____ is willful action with a higher level of intent to use fire as a weapon and an instrument of power; its setting is to achieve a goal.

- a. Fireplay
- b. Fire setting
- c. Criminality
- d. Delinquency

ANS: b

23. _____ is a curiosity and fascination of fire, most common among children and adolescents; damage caused is not maliciously inspired but rather is related to expression.

- a. Fireplay
- b. Fire setting
- c. Criminality
- d. Delinquency

ANS: a

24. A juvenile defined under federal law is a person who has not reached his or her _____ birthday.

- a. 15th
- b. 16th
- c. 17th
- d. 18th

ANS: d

