

**Poor Culture
Eats Everything Else
for Breakfast**



**Policy and training alone will not improve
investigative interviewing practice**

Dedicated to Denise, Aaron and Misty

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A few years ago, I was asked by a company to review and assess its respectful workplace and psychological safety climate. I pored over its policy and procedures and was thoroughly impressed with the work that had gone into creating what was indeed a well-written, detailed piece of literature. Unacceptable behaviour was clearly defined, and clear examples were provided for what would be considered inappropriate. Next came a review of training manuals on the topic, including curriculum for many courses and workshops. From what I read, the employees had all been trained well. There had been virtual and in-person courses on recognizing and reporting unacceptable behaviour in a modern, civilized workplace. It came as a shock; therefore, when in-person interviews revealed an extremely toxic environment where the level of incivility, bitterness, and fear was off-the-chart. Despite all the wonderful policy and training, many of the employees described the workday as *“walking on eggshells”*. They were scared to feel vulnerable, worried about becoming victim to rumour, gossip and ostracism, and terrified of retaliation. They came to work hoping only to get through the day without having to stand up to a bully or challenge a supervisor who would take feedback personally. They shied away from open conversation with colleagues in case another person or a clique to which they belonged would disagree with a point-of-view and decide to put them in the crosshairs of their wrath. Simply existing at work had become the norm at this company, despite the well-intended policy and training. Why had the environment got so bad?

The answer lies in the fact that the company had never dealt with the disrespectful, psychologically-unsafe atmosphere, and allowed it to become the predominant workplace culture. All guidance from policy had been voraciously devoured by the toxic culture that had been allowed to fester by weak leaders. Any training had been the equivalent of removing sick fish from a tank filled with toxic water and once rehabilitated, returning them to the polluted tank without having first changed the water. Think of working in a toxic workplace culture as trying to thrive in a dirty fishbowl. Now, enough of the scales; let’s move to the songs (a bad fish-music joke. I promise not to give advice on how to “tuna” fish or promise that the humour will get “betta”). Let’s swim to the topic of investigative interviewing to see how the culture of a team or agency could have an equally deleterious impact on the level

of professionalism of the practitioners who, although well-trained and guided by seemingly impeccable policy, often end up using poor judgement, in addition to drifting from more desirable and ethical practice.

A Healthy Interview Culture



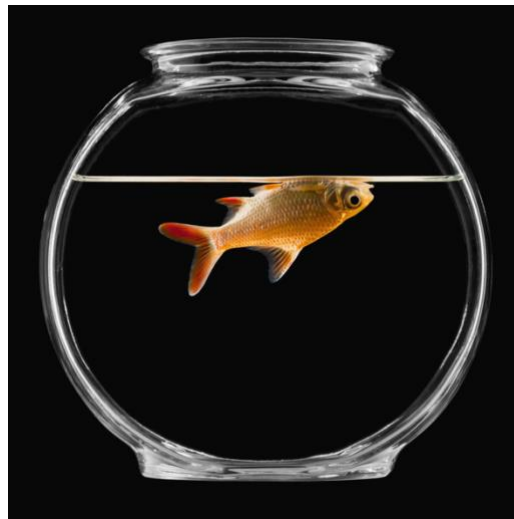
When assessing an interview culture, we must look to the goals of the process. Generally, the most professional and disciplined practitioners aim to obtain information that is relevant, complete and reliable. They don't overcomplicate the process with unrealistic goals or objectives. In this way, they may find out what happened, and if it were indeed contrary to a codified (not a fish pun) wrongdoing. If the information were the result of a technique that rendered the information either unreliable, or it was obtained by an investigator who interpreted it through a lens of bias, the goals would not be met. This would also apply to a technique that rendered the statement involuntary; thereby, making it inherently unreliable. The resultant information or intelligence would be of little investigative value, what is often referred to as being "*unactionable*".

To attain these goals, the interviewer must adhere to scientific principles, as opposed to using pseudoscience such as deception-detection techniques based on physiological observations (physical, verbal and paralinguistic). Although there are perceptually-attractive, anecdotal examples that appear to support the use of some controversial components, we should be careful not to rely on them too much.

Think of it this way; we would be foolish to consider it good practice to walk across a busy road wearing a blindfold, just because we had a friend who did it 10 times without getting hit. Let's look at three mindsets that could lead to an unhealthy interview culture

1. A confession-driven agenda
2. A disclosure-seeking agenda
3. A start-by-disbelieving agenda

An Unhealthy Interview Culture

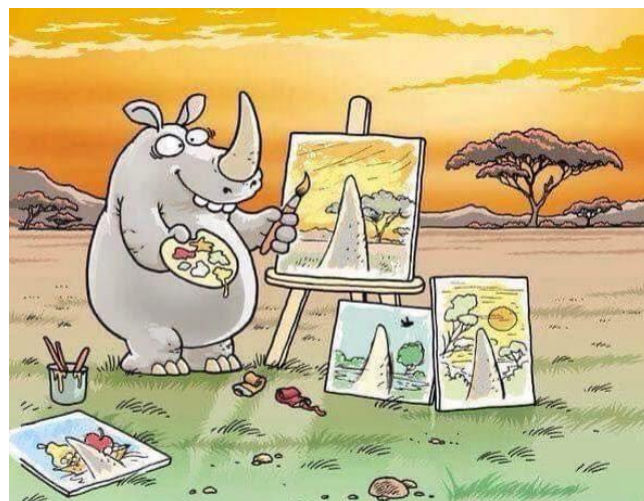


Confession-Driven Agenda:

An interview is a conversation with the purpose of obtaining information. If that information is complete and reliable, it may be used responsibly in an investigation. If it is either incomplete or unreliable, the investigative value of the information would decrease. If an interviewer were to stray from seeking information and focus more on getting a confession, the goals might not be reached as the methods used

for information gathering are less likely to obtain unreliable information than those used to obtain a confession. A confession-driven culture begins with a presumption of guilt (a bias) that could lead an interviewer to further fall prey to confirmation bias by filtering out, often unintentionally, any information that did not fit the initial case theory. The process involves starting with a belief and conducting an interview to satisfy that view. To get the confession, the interviewer often resorts to psychologically persuasive techniques such as stopping denials, levelling accusations, offering minimization or maximization themes, or presenting fabricated evidence. Whereas techniques aimed at persuading a person to talk (to simply provide information) do not generally cause false or unreliable information to be spoken, the same cannot be said for methods involving more telling than listening.

It is important to clear up a misconception that searching for “*the truth*” is the same as seeking information. Using the term “*truth*” is a cop-out and doesn’t change a confession culture. Truth is not the same as information; the former is an interpretation of reality based often on the latter. Truth appears to be embedded more in a belief system than information. This is why, for various reasons, one person’s truth may not be another’s. As an example, two people might observe an identical event yet describe it differently, perhaps due to factors such as distance and perspective. Take a look at the cartoon below and ask yourself if your view would be different than the rhino’s and if so, would your perception be less truthful than his?



Let's make this simple. An honest person may speak his truth, yet due to myriad factors, present a different account of what happened. This different version may make it unreliable; however, it could also be accurate according to the context and circumstances from which this particular witness had observed it. This means that information should be sought so that it could be assessed in light of all the other information and evidence to find what may be a reasonable interpretation of this thing we call truth.

Additionally, whereas an information-driven goal may be qualified and quantified during an interview, the same cannot be said about whether the truth goal had been achieved. It would be difficult to assess whether the truth had been reached, particularly in cases lacking corroborative evidence. It would simply be a self-fulfilling prophecy based on the initial biases and prejudices of the interviewer. Additionally, it would be disingenuous to say our goal was to obtain the truth when we would readily accept an agenda filled with provable lies. If we focus on obtaining information, the truth might be found somewhere within it or in our understanding of it. This means that the fulfilment of the interview might lead to reaching an informed decision that is an acceptable and reasonable estimate of what we might refer to as the truth.

After your next interview, ask yourself if you had achieved the goal of striving for information. You should be able to say either yes or no. Now, ask yourself if you had obtained the truth. That's harder to answer, isn't it? There is little value in setting goals that cannot be measured at the end of the process.

Disclosure-seeking Agenda:

The word disclosure is associated with a specific outcome where the witness expresses in words that s/he had indeed been the the person on whom an offence had been committed. For survivor interviews, the word "*disclosure*" could induce bias similar to what the word "*confession*" does in a suspect interview. In the same way an interviewer should seek information as opposed to a confession from a suspect, it should be information that is the goal of a witness interview. If an interviewer holds the goal of getting a disclosure, s/he may be successful, even for situations where the alleged offences had not in fact occurred.

An additional concern with having a disclosure goal is that the investigator might believe the alleged act did not occur simply because the survivor did not speak to it. There are many reasons a survivor might not mention the alleged wrongdoing, memory issues, fear of retaliation or fear of changing a family dynamic, for example, and this should not lead to an automatic conclusion of the investigation without further action. A common example is often found in intimate partner violence cases where the survivor may choose to withhold details crucial to satisfying the *actus reus* to protect her marriage. The consequences of attributing the lack of “disclosure” to a lack of criminal action could prove fatal in this type of situation. Remember that an interview and the information gathered, or not gathered from it, must never be interpreted in isolation of the investigation within which it must live. This is why we call the process an “*investigative*” interview.

Start-By-Disbelieving Agenda:

This agenda often thrives in investigations where women are the targets; sexual crimes and intimate partner violence. Since the “*Me Too*” movement, this prejudicial mindset appears to have been recognized, leading the pendulum to shift to support the mantra “*Start by believing*”. Although the intent is understandable and courageous, it may have gone to an opposite extreme that could insert a biased mindset at the initial investigative stages. In short, it appears to introduce an agenda that could hamper the goal of remaining impartial and unbiased. Although the difference may be subtle, perhaps it would be best for an investigator to think in the more neutral sense of “*Start by not disbelieving*” and stick to the goal of seeking information without any judgment. It would be horrible for a survivor to see their case fail because the investigator and investigation was shown to have been biased, based on the meaning of a few words. Perhaps its even time to change the “B” in the “ABCs of investigation” from “*Assume nothing, Believe nobody, Clarify and check everything*” to “*Don’t disbelieve anyone until it is supported by evidence*”.

The Cure



Seek information

The most important component of a solution to poor interview culture is to change the goal to seeking information, whatever the interviewee wishes to tell you, however she wishes to say it (her agenda) as opposed to our agenda (anything we would like to hear such as a confession, denial, or any other version that may fit our beliefs or goals). This is a critical change to our investigative mindset of taking control of the investigation and all its parts. It won't happen overnight, and it will require action and willpower. Words and banalities may look good on paper but will rarely yield results. This evolution must flow through the entire agency from the boots-on-the-ground all the way up to and including the chief. If not, all the good work at either end of the spectrum will be blocked from the other. The equivalent of a blood clot would create an impasse to the level of supervision and support required in a truly changing culture.

Recognize and Reward Good Practice

Reinforce good behaviour by publicly recognizing it. Instead of focussing on confessions, reward the interviewers who successfully clear someone during an interview. Additionally, reward those who do not drift from their training. Positive reinforcement will be noticed and spur others to keep on track.

Improve Supervision

Ensure that the supervisors understand how their interviewers have been trained and why they have been taught to follow scientifically-supported principles. This will allow the supervisor to realize interviewing is a skill that relies on more than mere common sense. Continually assess the supervisors to ensure they are not going against the current training standards and admonish those who promote expedience and any behaviour that is contrary to what the interviewer had been taught. A cancel culture related to training should be vehemently challenged. This means supervisors or more senior officers should not try to convince others to ignore the training because, for example, *“This isn’t the way we do it in the real world”*. Additionally, a win-at-all-cost attitude should be questioned immediately upon being noticed.

Culture Audits

To keep a fishbowl healthy, the tank steward should periodically test the water and examine the occupants for signs of disease. To keep your fingers on the pulse of your team’s culture, periodic culture audits should be conducted. This could include reviews of interviews as well as interviews with the interviewer and their supervisor. Trends, both positive and negative, would be observed and recognized.

Continuous Training

Training should rarely be a one-time occurrence during an interviewer’s career. By definition, scientific discovery should lead to an ever-evolving set of principles by which we should conduct our interviews. Additionally, the passage of time could lead an interviewer to drift from the received training.

Continuous Education

Although interviewers must be trained, they should also receive an education on the science supporting the investigative interview framework used. It is important for them to understand the psychology of human memory to understand why certain techniques may either help or hinder achieving the goal of obtaining information that is complete and reliable. This education would give the interviewer a better appreciation for the use of good practice related to, for example, rapport-

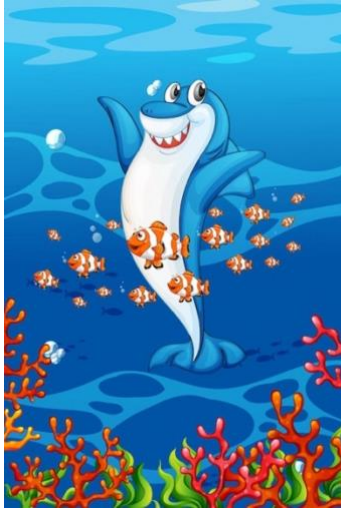
building or questioning. Investigative interviews, to be done properly, often rely on more than common sense, so education would rarely be detrimental to a healthy team culture. It would also be beneficial to exemplify the perils of poor interview culture by reviewing and discussing cases where a poor interview technique or culture hurt an investigation, or the people involved. A great example is the Netflix documentary *American Nightmare*. If this tragic account of destructive investigative culture doesn't help you see the light, perhaps interviewing should be left to someone other than you.

Reinforce Ethical Behaviour

Although we should adhere to the law related to interviewing, we must never ignore the ethical considerations. There are few absolutes in interviewing and a nuanced approach is encouraged. As no two people or circumstances would be identical, no two interviews should be conducted in the same way. Throw away your cookie cutter and learn to apply the phrase "*that depends*" to your decisions. Moreover, always remember the ethical consideration that just because you can doesn't mean you should. What might be ethically reasonable for one interviewee might be viewed poorly with another. This leads to another valuable mantra, "*sometimes the dragon wins*", which means an interviewee's choice to remain silent should not appear to be a ticket for the interviewer to cross ethical boundaries.

In a legal climate where it may be permissible to conduct a confession-driven interrogation, when they do not lead to an involuntary or false confession, we shouldn't lose touch with the reality that these types of interrogations have been scientifically proven to be more likely to cause a false confession than the information-seeking methods. An ethical assessment might reinforce the need to save the few from wrongful conviction even though it might lead to fewer convictions from suspect interviews. Whereas these interviews might be legal, arguably ethical considerations should supersede the law.

Conclusion



I once went to a friend's house and was astounded at how dirty he had let his fish tank become. The water, the parts I could see through the thick grime on the glass, was cloudy and possibly solid enough to walk across. I assumed the poor inhabitants, about six guppies, led an isolated existence, one where the outside world was rarely observed. I also pondered the physical stress the toxicity of their home must have placed on them. I mentioned my concerns to their owner, and he appeared to listen. The next day, I saw that he had removed the fish and placed them in a bowl of fresh water to "*cleanse*" them. I was surprised to see that they did look more active. To my horror, he tossed them back into their tank without having cleaned it first. Rather than solve the fishes' problem, he had simply prolonged their agony. Had the environment within the tank actually been the poor interview culture of a team, throwing the fish back in would have been as similarly ineffective as sending an investigator on a course to learn about scientifically-supported interview principles and returning her to the foggy world of her workplace where what she had learned would be neither accepted nor encouraged. The moral of this story: focus on improving the culture of your team to keep your fish healthy and happy; otherwise, the culture will devour any potentially positive effects from training and policy.

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