

Questioning in an Investigative Interview



The Line Between Too Much and Not Enough (when interviewing a cooperative person)

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Introduction:

The goal of this paper is to help interviewers conduct an interview that is efficient and effective. It will provide direction for planning the objectives so that information obtained is relevant to the elements of the matter being investigated. This will keep the questioning focussed on only what is required to show whether the alleged wrongdoing happened, without wasting valuable time and money. It will help you to interview smarter, not harder.

To be a proficient investigative interviewer, you must be able to pose questions that are “*productive*” (coined by Dr. A. Griffiths, circa 2000), meaning that they are likely to prompt a response containing information high in both quantity and quality. This is why courses often emphasize the benefit of open prompts and questions, in sequence with less-productive questions (Probing and Closed) posed in a funnel-based approach. When taught well, which often requires the addition of realistic scenarios, most students should be able to illustrate that they understood the principles and were able to use them in an interview. As a teacher, this is the easy part.

Where I often have trouble, is when a student asks me how much information should be sought from the interviewee, or how much is enough detail. The student typically becomes animated while describing a time a supervisor had refused to accept that the interview was complete, simply because the time had not been taken to seek answers to questions that, were, in fact, irrelevant to the matter being investigated. An example would be where a witness had mentioned a car, one that clearly had no relevance to the matter being investigated, and the

supervisor criticized the interviewer for “cutting corners” by failing to ask for the make, model, year and colour. After being forced back into the room to go through the motions, to appease the boss, our interviewer was beyond livid. So, why is it hard for me to give an easy answer, and come up with a precise questioning strategy for these situations? The difficulty lies in the fact that, for me to answer properly, I must have the time to focus on the grey areas, as opposed to absolutes.

To fully understand my predicament, imagine having a friend point to someone and ask if that person were over or underdressed. Whereas, you might initially think this could be answered without much thought, with a simple “yes” or “no”, I propose the best investigative response would be to precede any answer with, “*that depends*”. You see, unless you consider the specific, relevant context and circumstances, you might end up judging the proverbial book by its cover. Look at the pictures on the title page, and ask yourself whether the people in them were overdressed or underdressed. Could the two men wearing full business suits in a sauna have chosen this odd location because it was private and; therefore, perfect for a secretive business meeting? Do we know for sure whether the sauna was even on? Without answers to these questions, who would we be to judge them? Conversely, could it be possible that the man laying in the snow, had chosen to wear a Speedo (despite the potential for causing irreparable trauma to everyone else) because he had caught a virus, and was trying to bring down his body temperature? This is the type of grey area that should be embedded in a response to an interviewer who wanted to know how deep into the weeds she should dive. The rest of this paper will focus on the analysis that should follow, “*that depends*”, and looks at important considerations such as the relevant objectives of the interviewer, and how they will often be situational and contextual.

To quote Dr. Griffiths:

A questioning strategy is the conscious and structured use of different types of appropriate question, covering the relevant subject matter across the timespan of an interview according to the interviewee, interviewer and interview situation.

Perhaps the best way to resolve this matter, would be to unpack the important concepts found within the quote. We will focus on interviewing a cooperative person, and; therefore, not speak to theories such as the *Strategic use of Evidence* (Hartwig et al.), often used to increase the cognitive load of an interviewee with the goal of generating conversation. This means we will discuss the strategy for questioning people whose agenda is similar to the interviewer’s, one that does not require persuasion to motivate him to talk. We will, thus, begin by acknowledging there are often vast differences between the questioning strategies used for compliant and non-compliant interviewees.

Here is a pared-down version of the quote, showing only the components relevant to the objectives of this paper:

A questioning strategy is the...use of different types of appropriate question, covering the relevant subject matter...according to the interviewee, interviewer and interview situation

Question Strategy and Relevant Subject Matter

The art of posing questions should not be like a pinball game, where you fire off the ball and hope it hits all the right spots. Questions should be asked according to a planned strategy, one that guides the process of retrieving a person's episodic memory in a manner that maximizes information relevant to the matter being investigated, and minimizes that which is irrelevant. Although you will rarely achieve the goal of only obtaining relevant detail, a plan to mitigate the amount of chaff may reduce the length of the interview, keeping both you and your interviewee happy and engaged throughout.

Your strategy does not have to be complicated. It entails two prongs: understanding the elements of the matter(s) being investigated, and linking them to the nouns and verbs (including adverbs) of which the episodic memory of an event is usually comprised.

Interview Objectives

The nouns and verbs (people, locations, actions, conversations times & objects) mentioned by an interviewee while recalling an episode in her life, are often referred to as the *interview objectives*. They are the topics that the interviewer should develop in order to fully understand what happened. A valuable mnemonic device for the potential objectives to consider is PLATO (Kerry Marlow), which stands for: **P**-eople, **L**-ocations, **A**-ctions & conversations, **T**-imes, and **O**-bjects.

Offence Elements

The *offence elements* are the ingredients of the recipe found in either a codified legislative act, or policy. They are the items that must be obtained to legally prove that an offence or other wrongdoing had indeed occurred. They tell an investigator what is and is not relevant for a specific offence. They are your treasure map.

Let's look at a simple offence such as assault, where I have distinguished the offence elements by colour so they match the PLATO categories outlined above:

*A **person** commits an assault when, **without the consent** of **another person**, he **applies force intentionally** to that **other person**, **directly or indirectly** [although not listed in the wording of this offence, it is implied that a **location** and **date** must also be determined]*

An experienced interviewer, who has prepared by learning the *offence elements*, and planned to link them to the satisfied *interview objectives*, will often be able to streamline the process by keeping to questions that would elicit relevant information, without aimlessly meandering through detail that, although part of the interviewee's memory, was not related in any way to the alleged unlawful act. For example, if a witness said he had been walking his dog at the time

he had been assaulted, the interviewer would know that the description of the dog would not be required to prove or disprove the assault.

Conversely, the interviewer would be prepared to develop detail that would or would not shine light on whether one or more of the requisite elements had been satisfied. Here is a list of what would have to be proven before a charge could be proposed:

- Element 1: **A person** has been identified as having committed assault
- Element 2: **force was applied**
- Element 3: force was applied to **another person**
- Element 4: The person to whom the force had been applied had **not consented** to it
- Element 5: The force was **intentionally** applied
- Element 6: The force was applied either **directly or indirectly**
- Element 7: The force was applied at a provable **date**
- Element 8: The force was applied at a provable **location**

An added benefit to understanding the elements and objectives, is that the interviewer could avoid overly persistent questioning on a topic, if it could be proven by another avenue of enquiry, such as another witness or physical evidence. Once again, this could shorten the length of the interview, while simultaneously reducing the interviewer's urge to deviate from good questioning practice to obtain information that could have been found elsewhere. An example is found in the topic of time, where an interviewer would not have to incessantly probe with questions, when it could be extrapolated from the call history on a mobile phone, or the time stamp on CCTV footage. Keep in mind that I am encouraging efficiency, not expediency. The first would show that you were wise and knowledgeable, the latter would illustrate that you were either incompetent or lazy.

Tips to help develop a questioning strategy

- ❖ When in doubt, err on the side of obtaining too much information. It's easier to leave superfluous information out of the report than to have to conduct a second interview.
- ❖ Consider that any additional information provided might be a good cognitive cue for the interviewee's trial preparation, often months or years after the event. Open prompts such as, *"Tell me more about..."*, *"Describe..."*, *"Explain what you meant by..."*, or, *"Show me how he..."*, are often more productive (they get more uncontaminated detail) than the questions starting with who, what, where, when, why, or how, but they could draw out irrelevant details as well. It is these details that, because they were important cues for the initial recall, might be important to contextual reinstatement later on; thereby, leading to improved recall for trial testimony.
- ❖ If there is no utility in the question, you are moving from strategy to aimless wandering. Your hike through the interview should, as much as possible, stick to the beaten path of objectives, or you risk getting lost, taking more time than planned, and potentially wasting both your time and that of the witness.

Conclusion

If an interview were like bull riding where you scored higher for staying on the beast longer, or if you were paid by the hour and saving up for a vacation, I would be telling you to do yourself a favour and drag your interviews on as long as you could (just kidding, I know that would be fraudulent). If you are like me, your life is busy enough, without having to spend more time than necessary at work. For that reason, an interview is like a martini, where there is a noticeable difference between too few and too many. Prior to your interview, study up on what you need to know to prove whether the alleged act happened or not. Familiarize yourself with the elements of the matter being investigated by reading the policy or legislated act that lists the ingredients for a successful recipe. Develop a questioning strategy to obtain as much, and generally only as much, information and detail required, by developing the topics found within your interview objectives (PLATO). With luck, this paper will achieve two goals: it will keep your interviews efficient, and; it will help you explain to “that” manager why you made the right decision not to ask your witness to tell you everything she had eaten the day she had been assaulted, simply because she had mentioned having had breakfast earlier that day.

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