

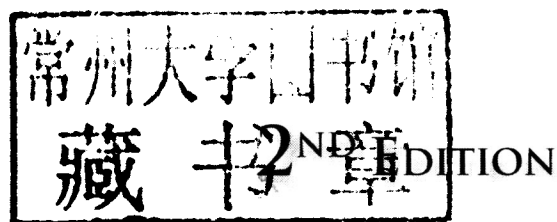
INTERVIEWING & INTERROGATION

FOR LAW ENFORCEMENT

2ND EDITION

JOHN E. HESS

INTERVIEWING & INTERROGATION FOR LAW ENFORCEMENT



JOHN E. HESS

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DEDICATION

To my wife, Jean, for her faith and patience, and with thanks to Pat, Sue, Margo, Steve, and Ursula.

ACKNOWLEDGMENTS

Nearly one-quarter of a century of wrestling with the problem of obtaining information from other people, often with little or no success, has caused me to reach out to many sources for help. Most of what I know about the topic I learned from these sources, but often I am unable to pinpoint exactly where, when, or how I acquired this knowledge. However, I suspect that much of it came from multiple sources through the years, and has melded into one eclectic philosophy.

Although nearly 15 years as a field agent contributed to my knowledge of interviews and interrogations, much of what I learned came from other sources, including the publications listed at the end of each chapter. While a few of them might qualify as references, most represent a sampling of the material that has influenced my philosophy of this topic and primarily are provided for the reader who desires more detailed coverage of the material.

However, information obtained from all the publications pales when compared with the insight and knowledge provided by the many practitioners, a few of whom are named below, I have encountered. Warren Holmes in his presentations at the FBI Academy showed that interrogators can also be teachers. His years of experience as a polygrapher and interrogator give him credibility that few others have. Joseph Buckley and other members of John E. Reid and Associates, through their training programs throughout the country, have done much to advance the level of interviewing and interrogation in both the public and private sector. Joseph Kulis, a psychologist who has worked with the Chicago Police Department for many years, has managed to bridge the gap between the clinician and the police officer. He provides practical advice for dealing with human nature. James Earle, Joseph Kenney, and Ron Hilley, all FBI agents, all polygraphers, and most important, all teachers, have provided more knowledge and insight than I can ever calculate.

Finally, I must give credit to the thousands of students, rookie and veteran, local and international, who have shared their experiences with me over the years. I would have needed several lifetimes to gain firsthand all the knowledge that these students and the other sources have provided.

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PROLOGUE

“Hey Joe, got your yearly letter from that creep, I see,” growled Al as he sorted through the stack of incoming papers in their mutual mail box. Joe and Al had been assigned to the homicide squad for more than 12 years, and although their methods differed, each had put his share of killers in jail during that time.

Joe glanced at the letter Al had tossed to him, opened it and began reading:

October 14

Dear Joe,

It's been just over five years now, and I just wanted to let you know I still haven't forgotten what you did for me. If it hadn't been for you . . .

“You know, Joe,” interrupted Al, “I'll never figure that one out. We had nothing on that guy. There wasn't a shred of evidence that he had killed that girl. God knows I tried to find some; I beat the bushes for months for nothing—no witnesses, no forensics, nothing. He knew it too because when I realized we had nothing to lose, I took a shot. I tried to convince him that we had enough to hang him. He just laughed and told me to go ahead and try it.

“Then you come along and shoot the breeze with him, and he spills his guts even though you didn't have a damn thing to offer him. If I live to be a hundred, I'll never understand.”

Joe resumed his reading:

. . . I would have remained a prisoner, just like you said. Not behind a wall, but in my own mind, and that would have been far worse. Deep down, I knew it all the time, but you were the one who helped me admit it. Nobody else understood or cared.

Thanks for setting me free. Come see me sometime if you get a chance; I'll be here.

Billy G.

State Prison

INTERVIEWING

Lasers, DNA analysis, and other high-tech procedures have recently bombarded the world of law enforcement. Through their use, some criminals who might have remained free have gone to jail. Not surprisingly, such cases often receive extensive publicity and, unfortunately, tend to overshadow reality. Investigators, not scientists, solve the vast majority of crimes, and they do so because “somebody talked.” Witnesses, accomplices, or the criminals themselves usually provide the solutions—solutions that are not obtainable through any high-tech process.

However, criminals rarely come forth voluntarily to provide these solutions, and witnesses often have no enthusiasm for becoming involved. Despite this, law enforcement agencies still manage to obtain these truly spectacular, but unpublicized results, and they do so through the efforts of a few investigators who have learned how to interview. Increasing law enforcement’s cadre of competent interviewers will do more to solve crimes than any technological advance ever will.

Despite the track record of investigators solving cases through interviewing, few agencies place much emphasis on the development of the skills involved in interviewing. They offer many reasons for this policy of indifference, and each explanation has an element of truth sufficient to sustain it. However, scrutiny of these reasons will dispel their validity and expose them for what they are: Myths. These myths range from the philosophical, such as assuming that good interviewers are born, not made, to the tactical, such as believing that interviews consist solely of questions and answers. We must eliminate these myths as a first step in expanding the pool of competent interviewers.

The fictional Sergeant Joe Friday of *Dragnet* has probably had a more detrimental impact on police interviewing than any other single person or event. Though greatly admired as an individual, Friday’s technique of insisting on “just the facts,” despite its entertainment value, was poor interviewing. Unfortunately, many officers, rookies and veterans alike, imitate this style, not

because it is effective, but because it is easy. By refusing to acknowledge a person's feelings and emotions, and instead just discussing the facts, the investigator removes much of the stress from interviewing. However, failure to deal with these feelings can also prevent the interviewer from obtaining those precious facts. Fear, anger, grief, and many other emotions serve as barriers to communication. If you deal with and remove these barriers, the facts will come. If they are ignored, the facts may remain unknown.

Many accomplished investigators define an interview as "a conversation with a purpose"—a definition that conflicts with the widely held myth that interviewing consists of asking a list of carefully prepared questions and meticulously recording the answers. Trying to conduct an interview in this preset way closely resembles the ploy of the nervous suitor who, before his first date, prepares a list of things to talk about. Not only does this tactic rarely succeed, it provides the material of which situation comedies are made. A conversation involves spontaneity and flexibility—qualities that are eliminated by the use of prepared questions.

The belief that interviewers are born, not made, and its counterpart belief, that interviewing can only be learned through experience, account for many investigators receiving little or no interviewing training. With few exceptions, each generation of investigators begins anew, having profited little from the experiences of the previous generation. The observation that "those who do not learn from the past are condemned to repeat it" often applies to interviewing.

Furthermore, not only do few investigators learn from history, they often even fail to benefit from their own mistakes. Only by identifying and analyzing their errors can investigators prevent their recurrence and become better interviewers; unfortunately, many have neither the knowledge nor the attitude needed to do this. Often, only training can remedy these shortcomings.

The following account of a "routine" arrest in which I took part as a rookie agent shows just how wrong things can go. Everybody involved in law enforcement has a similar story—this just happens to be mine. I confess that I have included it in part because I like to tell the story, but also because it helps to refute the common assumption that involvement in such a "comedy of errors" automatically teaches many lessons to the participants, an assumption not always borne out by experience. Participating in such an operation does not guarantee improvement any more than conducting a bad interview automatically makes one a better interviewer. We often ignore our mistakes, even those as blatant as the following:

Through the alertness of a small-town deputy sheriff, the FBI had identified a man who had robbed a bank in an adjacent town the previous day. The deputy had noticed a stranger in town using a pay phone and, after hearing the description of the suspect, realized that he had seen him. Telephone records for the time in question, coupled with other information, led to an arrest warrant for the suspect.

After determining that the suspect had not returned home for several days, the FBI interviewed his wife. She said that although she had no proof that her husband robbed the bank, she believed he had the capacity to do so, did fit the description, and did have a revolver matching the one used in the robbery. The wife also believed that her husband intended to kill her.

Not surprisingly, the FBI easily obtained her cooperation. They then told her to do nothing to alert her husband of their interest in him should he contact her. Instead, they told her to comply with his wishes and notify the FBI as soon as possible. They would then handle the situation.

She telephoned the FBI at noon on the following day. Her husband had called and requested that she meet him early the next evening at a rest stop on a nearby interstate highway. He had told her to bring him some clothes and some money. (He had spent the entire proceeds from the robbery on a new automobile for himself and a house trailer for his girlfriend.) This advance warning provided ample time for the FBI to plan for his arrest.

Following the idea that a simple plan works best, the FBI placed a four-agent apprehension team in an old panel truck and parked it near a telephone booth at the rest stop. The wife, as instructed, parked her car beyond the phone booth so that her husband would have to drive past the agents to get to her location. The plan called for the case agent, while pretending to use the phone, to serve as a lookout. Upon the arrival of the suspect, the case agent intended to get into the truck, notify the arrest team and then drive to a point that would block the suspect's escape. The arrest team then would exit the panel truck and take the suspect into custody. Numerous FBI agents and local officers were dispersed throughout the area to serve as backups for the arrest team. They posted me on the fringe of the action about 15 miles away and told me to remain alert. For what, I never quite figured out.

The suspect, unaware of the plan, failed to fulfill his part. At the appointed hour, instead of driving into the entrance of the rest stop, he continued past it. He stopped at the exit to the rest area, backed up to his wife's car and shouted for her to follow him. He then sped from the location. His wife, as directed by the FBI, followed him. The case agent observed this from the telephone booth and, realizing that the arrest plan had failed, decided to improvise. He got into the truck, started the engine and began to give chase. At the same time, he shouted this latest development to the arrest team in the cargo area. The truck had no windows in this compartment, and they had to depend on the driver to keep them advised of the situation.

However, because of a partition between the driver and the cargo area and the loud roar of the engine, they could only guess what was happening. They knew only that the plan had failed. Although equipped with a portable radio, they could not notify the backup units of this development because the radio signals could not penetrate the walls of the panel truck.

Meanwhile, the case agent, giving chase down the interstate, attained a top speed of about 30 miles per hour. Knowing this would not catch the suspect in his new V-8-powered sedan and theorizing that the parking brake was

responsible for the lack of speed, he attempted to disengage it. In doing so, he accidentally released the hood instead. Fortunately, the hood's hinges were located at the front of the hood rather than at the rear. Thus, the hood, whose safety catch was missing, only raised about six inches at the rear rather than completely blocking the windshield. The agent, of small stature, could now either press the accelerator or peer over the hood; he could not do both at once.

Again, the case agent needed to improvise. He decided to take the first available exit, locate a telephone and notify the office of the current situation. The office could then update the backup units by radio. It took a long time to reach this exit, a long incline that crested at the edge of a huge parking lot, part of a truck stop complex. As the truck drove up the ramp, its engine died, and the truck came to a stop at the edge of the lot. As the driver looked over the partially raised hood, he saw, approximately 100 yards in front of him, the cars of the suspect and his wife. The suspect had gotten out of his car and was approaching his wife, the woman the FBI had promised to protect.

No problem. The case agent had a well-armed and enthusiastic arrest team with him. They could be heard clamoring and struggling to get out of the truck; the inside door handle did not work properly. Actually, their frantic efforts to exit had little to do with the arrest situation; a faulty exhaust system had caused the excessive noise made by the truck during the chase; the arrest team was being asphyxiated. What had started as a "routine" arrest with more than adequate personnel had deteriorated to a one-on-one confrontation at 100 yards between an armed and dangerous suspect and an agent with a snub-nosed revolver, a weapon designed for close-range shooting.

Fortunately, when the case agent pointed his revolver at the suspect and shouted, "Halt in the name of the FBI," the suspect froze.

Meanwhile, the arrest team, having escaped from the truck and recovered from the exhaust fumes, rushed to the suspect and placed him under arrest. As one of the backup units who had finally figured out what was happening, I arrived a few minutes later and furnished handcuffs to the arrest team. Being new, I thought everybody involved in the arrest had a pair of handcuffs. However, each arrest team member had assumed that others would have handcuffs; none did.

The next day, a newspaper account of the arrest indicated that the suspect's capture had occurred without incident. Obviously, no reporter witnessed this event. Only those involved knew the truth, and they chose not to reveal it. The agents did apprehend the suspect, but hardly "without incident." People involved in operations that go awry often edit their press releases to omit the embarrassing parts. However, a problem occurs later when they begin to believe their edited press clippings. Smugness and complacency can result.

Fortunately, most tactical units in law enforcement now conduct post-action evaluations as standard practice. They examine missions in terms of planning,

equipment, and execution, and find ways to improve. Tactical units identify and analyze their mistakes and therefore tend not to repeat them. For instance, if they had reviewed the above operation they might have made the following observations:

- always review plans
- test vehicles beforehand, including:
 - top speed
 - exhaust system
 - door and hood latches
- check communications under operational conditions
- inventory all equipment in advance

Although press releases rarely follow, interviews do not differ from tactical situations regarding the need for post-action evaluations. Only by careful analysis of past performances can interviewers improve. Otherwise, they will make the same mistakes again and again until they become ingrained—experience does not guarantee competence. The existence of many ineffective “old-timers” amply illustrates this.

“Why didn’t somebody tell me this stuff years ago?” Hearing this question many times from experienced agents and police officers convinced me to write this book. In this book, as in the training course that prompted this question, I have tried to dispel some of the mystery surrounding the interview process by sharing techniques and ideas that others have used successfully through the years. I hope that this will prevent the reader from having to learn them all the hard way, through trial and error, an impossible task for one lifetime. I offer this book only as a starting point, however, not as a substitute for training, more extensive texts, or experience.

