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Benevolent Interrogation

"... the best techniques for obtaining a confession are the time-honored principles of persuasion."

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EDITOR'S NOTE:

This article does not advocate the use of threats or promises; instead, it discusses techniques of persuasion. It does not address the legal requirements for obtaining an admissible confession. Law enforcement officers should consult their legal advisers concerning legal requirements and permissible persuasive techniques.

"There's no use talking to that guy anymore. Even though we know he robbed that store, he'll never admit to anything." How often have we heard some version of this statement made about a recently arrested subject? Often enough to convince us of the futility of trying, in most cases, to obtain a confession. Fortunately, many law enforcement agencies have at least one officer who responds, "Well, let me

talk to him anyway, and I'll see what I can do." He later emerges from the interview room with a signed statement in which the subject not only admits his own guilt but also identifies his accomplices. Fellow officers often attribute this consistent success to unteachable, intuitive powers that few officers are able to develop, even after years of experience.

Before accepting this theory, let's examine that officer's interrogation techniques. Then we can determine if his methods substantiate the idea that he possesses magical powers or refute it by showing that his tactics can be duplicated.

The Successful Interview

The handcuffed subject is sitting in the interview room when the officer enters, identifies himself, and says, "Let me take those cuffs off. You've been here for some time. Do you need to go to the restroom, get a drink of water, or

something?" If the subject has such a request, the officer ensures that it is granted.

Next, the officer states, "We've got a problem here, and we need to talk about it, but we both know we can't until I'm sure you understand your situation. I have an advice of rights form which I'm going to read to you, but I'll bet you know as well as I do what it says, don't you? How about showing me what you know?"

The subject responds by paraphrasing the *Miranda* warning. The officer then reads the form aloud, compliments the subject on his knowledge, confirms that he understands his rights, and requests that he sign the form. The subject says he has nothing to hide and is willing to talk. However, he says he will not sign anything.

The officer explains the circumstances of the subject's arrest, noting his denial. He requests details of the

subject's activities beginning well before the time of the robbery and ending with his arrest. The officer listens intently to the subject's account, intervening only to encourage him to continue.

After the subject has told his story, the officer reviews it step by step and asks for elaborations on each point. He repeats this process many times, occasionally requesting that the subject start at the arrest and tell his story in reverse. The officer continually asks for more details, but at no time during this lengthy process does he accuse the subject of being involved in the robbery.

When the subject is finished, the officer begins a virtual monolog about robbery. He states that although he does not condone it, he does understand how people in desperate circumstances might regard robbery as the only available recourse. A lack of opportunity due to social injustices, combined with a need to support themselves and their families, can cause people to take desperate actions. The subject makes no comment but nods his head in agreement.

Next, the officer suggests that no one initially chooses armed robbery as a career. Usually, he arrives at that point via a gradual process, beginning with minor violations committed more for the thrill of the acts than for profit. However, like the heroine addict who requires an ever-increasing dosage to obtain the same effect, the petty criminal graduates to where nothing short of using a gun and wielding power over others will furnish the thrill once provided by lesser crimes.

The officer then says, "But you already knew everything I've just said, just as you already knew about your *Miranda* rights. Now let me tell you a few things you don't know." He then de-

scribes robbery as a career that is very limited in duration and profit, disputing the rationalization that robbery is a solution to one's problems. "Sometime soon, you're going to walk into a store and point your gun at a clerk who, instead of doing as you tell him, is going to reach for that gun under the counter. You are now in the position of kill or be killed. Either way, you lose." The officer concludes by emphasizing the inevitable result of this pattern of crime—life in prison or death. The subject, suggests the officer, can avoid this fate only by breaking this pattern of behavior. The first step must be to admit that it exists. The officer adds that a man's life should not be judged on one mistake, nor should his life be wasted by a refusal to admit that mistake.

Next, the officer confronts the subject with the fact that a second subject in the robbery is still free, probably enjoying the fruits of the crime while the subject pays the penalty. The officer notes that the accomplice has done nothing to help the subject. He further points out that loyalty must be a two-way process; otherwise, it is not loyalty but just another example of the subject being victimized by those around him.

After pausing for a few minutes to allow the subject to think about what he had been told, the officer resumes his monolog by noting that the subject had dealt previously with the justice system. The officer wonders if the subject believes he had been treated unfairly, that perhaps his sentences for minor offenses were harsher than those received by others for similar crimes. He then points out that the subject pled "not guilty" each time he had been arrested. The officer suggests that judges base their decisions on many factors, one of which is the attitude of the person convicted. Although there are no guarantees, one can hardly expect a judge to be understanding and lenient

unless the subject has shown remorse. This is impossible unless the subject admits his mistake. The officer warns the subject not to allow fear to dictate his thinking. "Fear prompts irrational behavior and causes people to do stupid things. An intelligent man would recognize when it is in his own best interest to admit a mistake."

Throughout the interview, which lasts for several hours, the officer responds to the physical and emotional needs of the subject. Although he uses an empathetic approach, he demonstrates an absolute resolve to overcome any defense the subject might use. This benevolent dominance by the officer, combined with the ever-dwindling list of viable alternatives for the subject, eventually results in the subject's confession.

Analyzing the Interview

Before examining what the officer said or did that resulted in the subject's confession, we should note the things he did *not* do. Certainly, his tactics would have disappointed most of the general public, as well as many people in law enforcement, who base their concept of the ideal interrogator on models provided by television. The officer was no Jack Webb demanding "nothing but the facts," nor was he Perry Mason using cleverly constructed questions to trap the unwary culprit. And a Kojak threatening to "scatter your brains from here to White Plains," he definitely was not. The officer had learned that in the absence of strong evidence, none of these tactics generally produces a confession.

Instead, the officer has learned that the best techniques for obtaining a confession are the time-honored principles of persuasion. Beginning with the

"Credibility is a critical element of both persuasion and interrogation...."

incident in the garden, when the serpent convinced Eve to taste the forbidden fruit, man has been influenced more by persuasion than by tricks or threats.

Although there are many subtleties and variations of persuasion as it applies to interrogation, its basic principles are readily understood when we view them in a familiar context, such as the medium of advertising. By examining the various ploys used by advertisers, and then comparing these techniques with those used by the interrogator, we will see how the same principles of persuasion apply in each. This comparison, we hope, will dispel the idea that successful interrogation is a magical process.

Establish Credibility

This technique can be observed regularly via astronauts selling cold remedies, models endorsing beauty products, etc. The interrogator approaches the interview with a degree of credibility based on his position, badge, and uniform, but he avoids the mistake of relying on these trappings, and instead, recognizes that credibility is a quality which must be enhanced through professional behavior. The interrogator's demeanor and knowledge of the subject's background and facts of the case contribute to this enhancement. Credibility is a critical element of both persuasion and interrogation, and without it, all other attributes and techniques are meaningless.¹

Create A Feeling of Reciprocity

Salesmen take clients to lunch and obtain signed contracts beyond that which the client intended. Car dealers give children fifty-cent balloons and the

parents purchase \$14,000 automobiles. These salesmen know that people respond to gifts by returning, not in kind, but far in excess of the initial gift.² The interrogator, by providing the token gifts of coffee, water, and other minor comforts, puts the subject in his debt. Though this alone will not produce a confession, it increases the chance that the subject, at least, will feel obligated to listen to the interrogator.

Provide Compliments

Ads often appeal to "those with discriminating taste" to sell products priced far beyond others that would fulfill the same needs. The ads succeed because they make the buyers feel good about themselves, and they associate this good feeling with the products.³ The officer's technique of complimenting the subject on his initial knowledge of the *Miranda* warning and his references to the subject's intelligence were designed to do just that.

Know Your Audience

Vast sums of money are spent in marketing research to determine the tastes of various segments of society, in terms of both desired products and methods of appeal. The results indicate which new products to market, the characteristics of potential buyers, and the sales techniques most likely to achieve results. The officer conducted his "marketing research" during the initial phase of the interrogation by repeatedly asking the subject for minute details of his story. He was ensuring himself of the subject's guilt and determining the tactics most likely to lead to a confession.⁴

Convey A Sense of Urgency

"Sale Ends Tomorrow," "Limited Offer," and "Get Them While They Last" are all statements aimed at overcoming a buyer's inertia. They use the

principle that anything becoming scarce has a higher perceived value.⁵ The officer introduces a feeling of urgency by saying that this interview is the subject's last opportunity to avoid a life in prison or death.

Cast Doubts On Current Beliefs

To introduce successfully new products into competition against established brands, ad agencies not only sound the virtues of the new products but they also subtly raise some doubts about the quality of existing products. These doubts cause the buyer discomfort and he seeks relief by the most convenient means—by trying the new product.⁶ Thus, the officer raises doubts about the loyalty of the subject's associate. He then exploits the doubts by giving evidence that the loyalty does not exist, while redefining what loyalty is.

Rearrange Values

Ads aimed at convincing people to invest in long-term programs deliberately try to rearrange values by appealing to the buyer's higher ideals. If the appeal sounds genuine, the buyer's behavior may be modified.⁷ "Buying your grandson a bicycle would be nice, but let's compare that to the benefits of starting a college fund for him." Offering a future of respect and self-worth is the officer's method of attempting to supplant the subject's immediate goal of avoiding punishment.

Provide Acceptable Reasons

Few, if any, commercials advocate purchasing luxury items or taking extravagant vacations at the expense of food, clothing, shelter, or a child's education, even though some buyers may be required to make these kinds of decisions. Instead, ads will be steeped

in terms like "enhancing one's lifestyle" and "you owe it to yourself." These, and similar phrases, help minimize guilt and maintain the buyer's self-respect.⁸ The interrogator recognizes the subject's need for self-respect and addresses it by using moderate language to seemingly reduce the severity of the crime. He uses the word "mistake" instead of crime. He also attempts to give some logical, ostensibly justifiable reasons for the subject's actions.

Conclusion

The above interrogation techniques are not new or mysterious strategies known only to a select few. They

are nothing more than the practical application of a few fundamental principles. Whether it be a merchant selling his products, a politician winning votes, or an interrogator obtaining a confession, the same basic principles of persuasion apply. These principles have been studied and the findings set forth in works from Aristotle to Dale Carnegie. The interrogators who fail to take advantage of this readily available information, choosing instead to adhere to the premise that success is based on some inherent magical power, perpetuate the myth of the "chosen few."

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Footnotes

¹L. Cooper, *Rhetoric* (Aristotle trans.) (New York: Appleton-Century, 1932).

²B. Cialdini, *Influence* (New York: Quill, 1984).

³Ibid.

⁴W. Holmes, "Interviewing and Interrogation," (lecture) FBI Academy, Quantico, VA.

⁵Supra note 2.

⁶L. Festinger, *A Theory of Cognitive Dissonance* (Stanford, CA: Stanford University Press, 1957).

⁷M. Rokeach, *Beliefs, Attitudes and Values: A Theory of Organization and Change* (San Francisco, CA: Jossey-Bass, 1969).

⁸A.H. Maslow, *Motivation and Personality*, 2d ed. (New York: Harper and Row, 1970).

Crime Index Shows Crime on the Rise

Preliminary data released by the FBI's Uniform Crime Reporting (UCR) program show that serious crime rose 6 percent from 1985 to 1986, as measured by the FBI's Crime Index. Unlike the Department of Justice's Bureau of Justice Statistics, which attempts to measure both reported and unreported crime, UCR statistics gauge changes in the volume of crime reported to law enforcement agencies throughout the Nation.

The 1986 Crime Index increase was the largest since 1980, and all offenses comprising the Index showed upswings, as compared to the previous year's totals. Violent crime was up 12 percent, while the property crimes rose 6 percent. Among violent crimes, murder and robbery each increased 9

percent; forcible rape, 5 percent; and aggravated assault, 15 percent. Of the property crimes, burglary and larceny-theft were both up by 5 percent, motor vehicle theft increased 11 percent, and arson rose 3 percent.

All regions of the country experienced increases in the Crime Index in 1986. The biggest upward trend was in the South, which registered a 10-percent rise. Elsewhere, the Index rose 6 percent in the West, 4 percent in the Midwest, and 3 percent in the Northeast.

Nationwide, cities with populations over 50,000 averaged a 7-percent increase in the Crime Index, while suburban areas averaged a 6-percent rise. The Nation's rural areas experienced an Index increase of 3 percent.