

Turning the Case Upside Down - Rethinking the Art & Science of Educing Information



**Suspect Forensic
Experiential Interviews**

Interrogation Room (C) Cold Levian

824 Law Enforcement Interview Techniques

- **Emotional provocation**
- **Rapport & relationship building**
- **Confrontation & competition**
- **Collaboration**
- **Context manipulation**
- **Presentation of evidence**

(Kelly et al., 2013)

Check On Learning

- **What techniques are being used?**
- **Are the techniques effective?**
- **What is the goal of this interview?**
- **What information did you learn?**
- **What, if anything, would you have done different?**
- **How would you react if you were in the suspects seat?**

**Brutality you can resist.
If I slap your face, you
can slap me back –
probably harder than I
can. But if friendliness
and considerations for
the underdog comes
from the heart, show
me the human being
who can resist it.**

Hanns Scharff

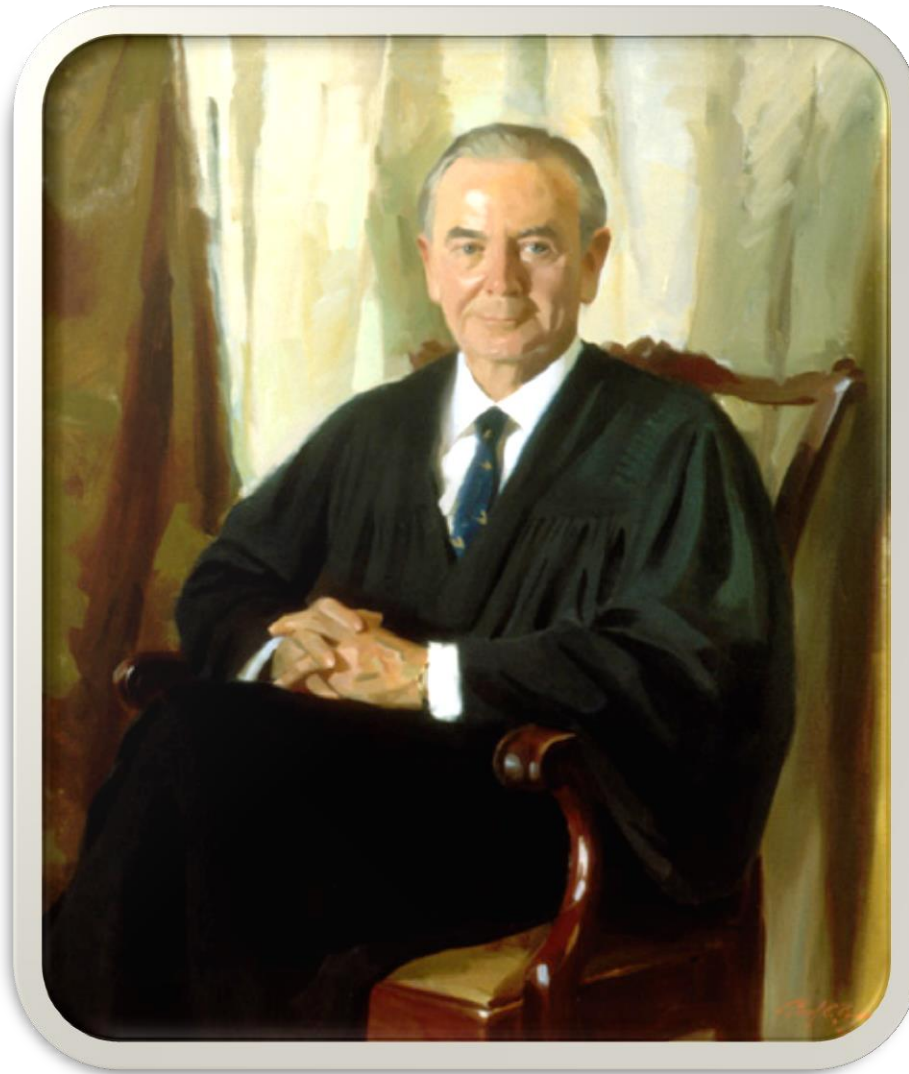


The Interrogation

The Suspicion

What is the purpose of an interview/interrogation?





"Our distrust for reliance on confessions is due, in part, to their decisive impact upon the adversarial process... No other class of evidence is so profoundly prejudicial." **Supreme Court Justice Wm. Brennan**



When We Get it Wrong!

Interrogation


- A guilt presumptive process
- Only outcome measure is a confession
- Once people form an impression they unwittingly seek, interpret, and create behavioral data that verify it (McNatte, 2000)

Confess

- *Although the traditional goal of an interview is to **obtain a confession** or valuable information, law enforcement will have to display flexibility in the interview process by implementing **alternative interview strategies** and redefining what a successful interview is composed of when these suspects are unwilling to confess to their crimes. (Perri, 2011)*

TRADITIONAL 2 STEP PROCESS

- Behavioral Assessment
 - Lie detection
 - Pre-interrogation interview
- Elicitation of a confession



**There is no evidence
for diagnostic value
of “behavioral Symptoms”
(Kassin, et al., 2010)**

The **Science** of Human Deception Detection

Contrary to VERY popular belief...

There is little!

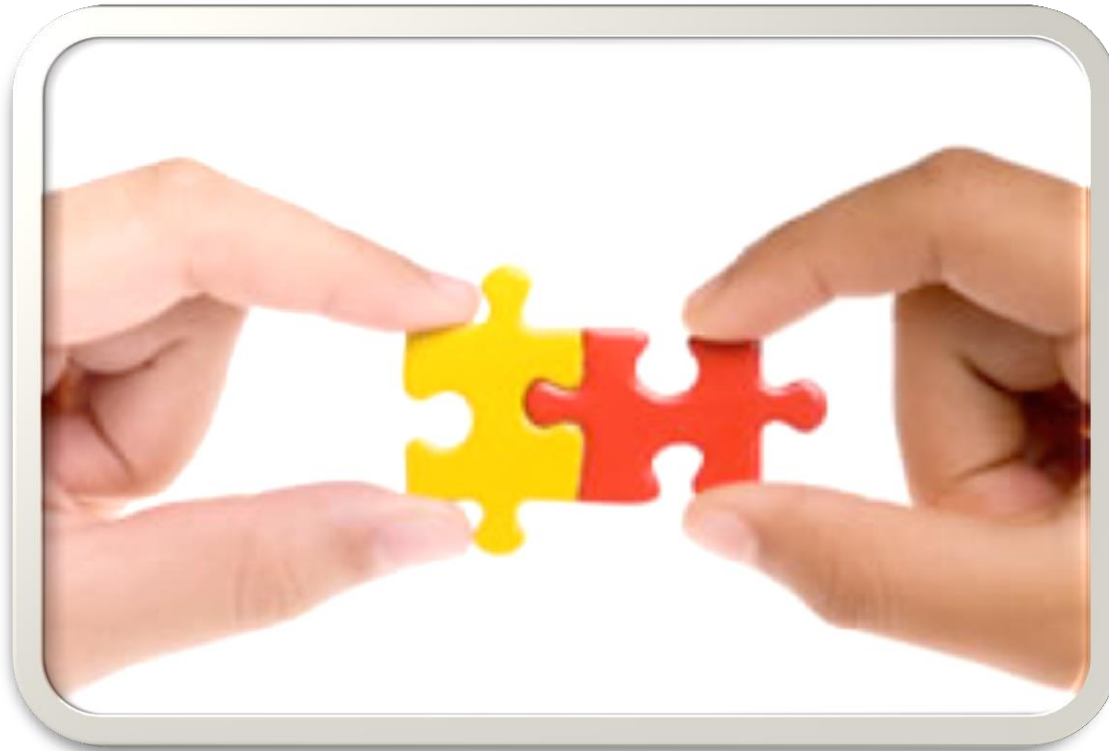
Is it possible to be 100% honest??



How much do we lie?

- "Human beings--who, according to psychologist Gerald Jellison of the University of South California, are lied to about 200 times a day, roughly one untruth every five minutes--**often deceive for exactly the same reasons: to save their own skins or to get something they can't get by other means.**"

ALL behavior is functional



Almost everything we learned about truthfulness/deception...

- According to John E. Reid & Associates, investigators trained in their Behavior Analysis Interview are able to distinguish truth and deception at an 85% level of accuracy (<http://reid.com/service-bai-interview.html>)
- Unfortunately – psychological research has generally failed to support that individuals can attain high levels of performance in making judgments (Meissner & Kassin, (2002)
- Research indicates that most people – especially law enforcement officers are not able to detect deception better than chance (Garrido & Massip, 1999; Hartwig, Granhad, Sromwall, & Vrij, 2004)

Differences in Beliefs About Indicators Of Deception

Behavior Aldert, Vrij, & Semin (1996)	Students	Prisoners	Professional Lie Detectors
Gaze aversion	.78	.33	.73
Smiles	.28	.06	.24
Head movements	.33	.36	.43
Trunk movements	.24	.13	.34
Postural shifts	.63	-.17	.67
Gestures	.04	-.06	.40
Hand/finger movements	.48	-.11	.59
Foot/leg movements	.71	.33	.72
Self touches	.64	.38	.67
Shoulder shrugs	-.04	.41	.44
Response length	.06	.06	.24
Speech rate	.51	.26	.34
Latency period	-.10	.06	.29
Ah-filled phrases	.32	.33	.51
Non-ah speech disturbances	.65	.38	.54
Pitch of voice	.34	.13	.31

A wake-up call

Group	Accuracy
Students	.25
Prisoners	.32
Customs officers	.22
Police detectives	.22
Prison guards	.23
Patrol police officers	.24
Aldert, Vrij, & Semin (1996)	<i>Journal of Nonverbal Behavior</i>

What does this mean?

- To be fair – most studies put deception detection for most somewhere around chance – of course – not so good
- The significance of this study is that the professionals that primarily used the 16 perceived indicators of deception – as we were trained to do – generally do worse than other groups but have a greater – even significant – degree of certainty of the ability to detect deception
- Bottom line – no one - including us - are very skilled at deception detection – we would do well to remember this and stop making inappropriate and often harmful and damaging judgments based on baseless assumptions

That's Blasphemy! Why would you say such a horrible vile thing?!?!?!?

- (Akehurst, L., R. Bull et al. (2004), (Ben-Shakar, G., and Dolev, K. (1996), (Burgoon, J.K., Buller, D.B., Ebesu, A.S., and Rockwell, P. (1994), (Chahal, K., and Cassiday, T. (1995), (Colwell, K., C. K. Hiscock et al. (2002), (DePaulo, B. M., and Pfeifer, R. L. (1986), (DePaulo, P.J., and DePaulo, B.M. (1989), (Ekman, P. (1996), (Ekman, P., O'Sullivan, M. and Frank, M.G. (1999), (Ekman, P., and O'Sullivan, M. (1991), (Frank, M.G., Paolantonio, N., Feeley, T.H., and Servoss, T.J. (2004), (Garrido, E., and Masip, J. (1999), (Granhag, P.A., and Stromwall, L.A. (2000), (Kraut, R. E., and Poe, D. (1980), (Levine, T. R., Park, H. S., and McCornack, S. A. (1999), (MacLaren, V. V. (2001), (Mann, S., Vrij, A., and Bull, R. (2004), (Porter, S., Woodworth, M., and Birt, A.R. (2000), (Porter, S., Woodworth, M., and Birt, A.R. (2000), (Vrij, A., Edward, K., and Bull, R. (2001), (Vrij, A., and Mann, S. (2001), (Wang, G., Chen, H., and Atabakhsh, H. (2004)

**22 Peer reviewed
research projects/papers
& counting...**

The problems...

- Much of the “research” in deception detection includes the following precepts
 - Cognitive load
 - Facial expressions
 - Stress
- Much of the deception detection “research” fails to address
 - Culture
 - Socialization
 - Gender socialization
 - Trauma
 - Personality
 - Psychology
 - Variability
 - Complex human emotions
 - Stress
 - Interviewer bias

Traditional interrogation techniques

- Increasing anxiety associated with denial
- Minimize anxiety associated with confession
- Isolate
- Presentation of false evidence/information
- Offer moral justification for offense
- Development of themes
- Infer or offer leniency for confession

The good news 😊

- We are generally able to determine if someone is telling the truth better than we are able to detect deception
- Sometimes deception detection does work on some people with some people
- The best way to determine the truth/deception is to attempt to determine the “experience” of the individual
- By recognizing our limitations we may actually increase our accuracy

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Interview Goal

- The importance of the interview is **not just in the collection of facts**. One must keep in mind that the interview may be the only time a jury may have to view a defendant's personality for truthfulness, arrogance, lack of emotions, selfishness, and manipulation especially if the defendant decides not to testify and all there is is a videotaped interview. These are the intangible qualities of an interview that have nothing to do with the evidence per se but with how human nature interprets certain behavior that speaks volumes to a jury. (Perri, 2011)

Credibility

- **Do not necessarily rely on past strategies that were successful in obtaining confessions to determine future strategies. Interviews that do not produce a confession are not necessarily unsuccessful if they produce implausible and inconsistent statements that impact the credibility of a suspect. (Perri, 2011)**

**But...I know what works based on my
experience!**

- **“Experience and lessons learned offer a necessary, but insufficient, basis for determining the effectiveness of education practices.
“ Dr. Paul Lehner”**

- The accuracy of educated information can be compromised by the manner in which it is obtained. The effects of many common stress and duress techniques are known to impair various aspects of a person's cognitive functioning, including those functions necessary to retrieve and produce accurate, useful information. (Borum, 2005)

The Basics

- Why do people admit to wrongdoing?
 - Guilt
 - Bragging
 - Doesn't appreciate it is wrong
 - Empathy
 - Trust
 - Manipulation
 - Mental illness

Some suspects are more vulnerable to manipulation than others...

So why are some suspects more vulnerable?

- Compliance in social situations
- Desire to avoid confrontation
- Eagerness to please
- Poor memories
- High level of anxiety
- Low self-esteem
- Lack of assertiveness
- Impacted by misleading questions
- Psychological disorders

**What about false
Confessions?**

False confessions are persuasive

- **Whether true or false – most contain:**
 - **Admissions of guilt**
 - **Substantive details about the crime, the scene, and the victim**
- **33 false confessions (exonerated) – 32 contained specific, accurate, allegedly “non-public” details about the crimes at issue, and details the detectives said” only the perpetrator could have known” (Garrett, 2008)**

Content analysis of 20 known false confessions (Kassin, 2009)

- Contained a full narrative description
- All referenced the victim's appearance & behavior, time of day, location, and various visual & auditory details
- 85% reflected their own thoughts & feelings
- 80% provided a motive statement
- 65% sought to minimize or excuse their involvement
- 40% expressed remorse
- 25% apologized
- 50% made a point to assert that their statement was voluntary

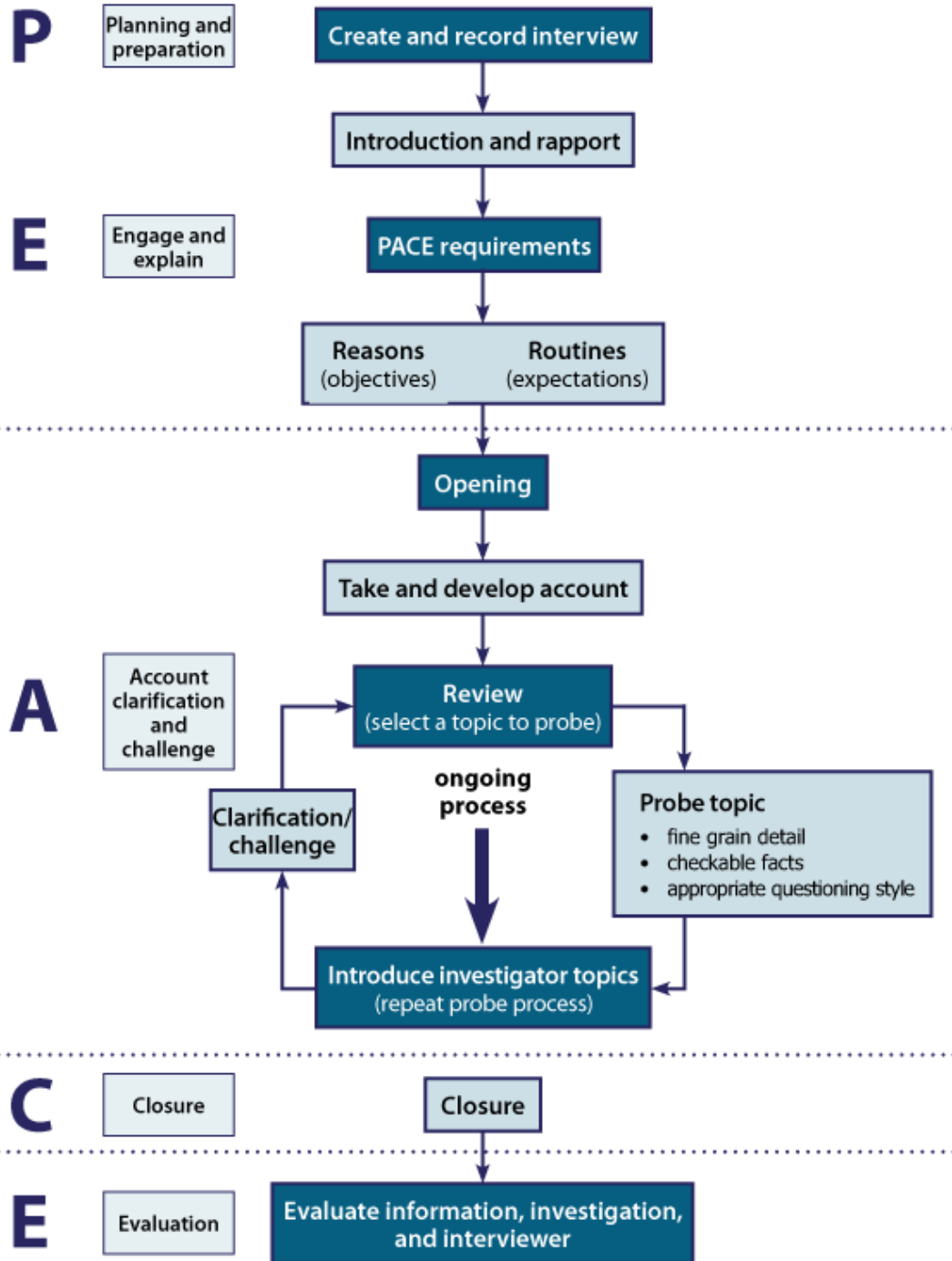
So what do you recommend?

Investigative Interviews vs. Confrontational Interviews

- Investigative interviews reduced rate of false confessions from 40 to 17 percent without producing a corresponding decrease in the rate of true confessions which actually increased from 67 to 77 percent (Rigoni & Meissner, 2008)

Investigative Interviews

- **Goal is fact-finding – not confession**
 - fair and open-minded
 - true and accurate information
- **No threats, promises, intimidation**
- **Open ended questions**
- **Inculcate offenders by obtaining useful information from them (Williamson, 2006)**
- **Four recent studies were found supportive of this model (Bull & Soukara, 2009)**



Strategic Use of Evidence (SUE)

- Briefly explained, one difference between guilty and innocent suspects is that the former tend to withhold critical details whereas the latter tend to be generally forthcoming. To exploit this difference, the interviewer can use existing evidence in a strategic fashion to gain truthful admissions. That is, before presenting a piece of evidence to the suspect, the interviewer poses questions to exhaust possible alternative explanations and makes the suspect address that piece of evidence
- Subsequently, the interviewer confronts the suspect with the piece of evidence. This strategy increases the likelihood that guilty suspects provide statements inconsistent with the existing evidence (Granahag & Hartwig, 2015)

SUE (Continued)

- If this strategy is repeated for each piece of evidence, guilty suspects might become aware of the interviewer's tactic (i.e., that the suspect is asked to address topics related to evidence already possessed by the interviewer)
- Hence, by strategically applying such an evidence-confrontation procedure (i.e., influencing the suspect to expect the interviewer's tactical pattern), Tekin and colleagues' approach (2015) more successfully influenced guilty suspects to provide truthful admissions for evidence not held by the interviewer (compared to interview approaches that present evidence early on or not at all)
- Furthermore, the interviewer using the SUE confrontation was perceived as holding relatively more information about the critical phase of the crime and generated more statement-evidence inconsistencies when compared to the interviewer presenting evidence early on (Tekin et al., 2015)

(I) (❤️)

PHENOMENOLOGY

Of

Innocence



It is better to inquire than not to inquire.

SOCRATES

Scharff Technique Anchor Principles

- Source typically forms a hypothesis on how much & what information the interviewer already holds
- The sources perception will affect his/her counter-interrogation strategies
- The counter-interrogation strategies will affect how much and what information the source reveals

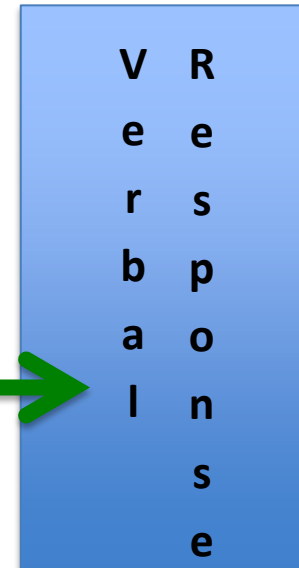
The Scharff Technique

Scharff Tactics



Sources

Perspective



Scharff Technique Research

Conclusions

- Demonstrated its superiority over the direct approach as a tool for gathering information
- Consistently resulted in relatively more new information and led to sources to provide new information unknowingly
- Sources had a relatively more difficult time understanding what information the interviewer sought to collect
- The interviewer was consistently perceived as relatively more knowledgeable about the topic under discussion

“But in the course of a regular conversation he will probably drop somewhere an indication that he did or didn’t, without even knowing what he said”

“Did your plane carry bombs on it or not? You cannot ask that direct question, he will Never answer it.”

Use of FETI With Suspects

“Forensic Experiential Trauma Interview” (FETI)

- This unique advanced interview process, combines the best of **child forensic interview techniques** along with the principles of **critical incident stress debriefings** and new **neurobiology research** to obtain not just the who, what, why, when, where, and how of the incident, but also **the three dimensional experiential aspect of the crime**. This process solicits and documents critical forensic physiological evidence. Based on feedback from the field this new technique has already shown to be substantially more effective in obtaining information and substantially more beneficial evidence which results in more successful prosecutions of sexual assault cases. The FETI technique is also being trained to International Federal, State, and local civilian agencies and has been embraced as a promising best practice.

The Prefrontal Cortex

Allows control – or
at least *guidance* –
of older and more
primitive brain areas

High Stress = Impaired Prefrontal Cortex

- Stress chemicals basically **turn it off**
- Old and primitive brain structures take control
- **We can't...**
 - Control our attention
 - Remember our values
 - Think logically
 - Over-ride emotional reflexes or habits
- Evolutionary origins: Stop to think – you're lunch

CENTRAL

Central Details:

- Strongly encoded
- Changes little over time

STATION

Peripheral Details:

- Weakly encoded
- Changes much over time



Truth

Sight

Smell

Sound

Feeling

Thought

Body
Sensations

Combination to Unlocking the Evidence

Experience

Bedrock of Disclosure

**belief that someone
or something is
reliable, good,
honest, effective**

A Paradigm Shift...

Forensic Experiential Trauma Interview

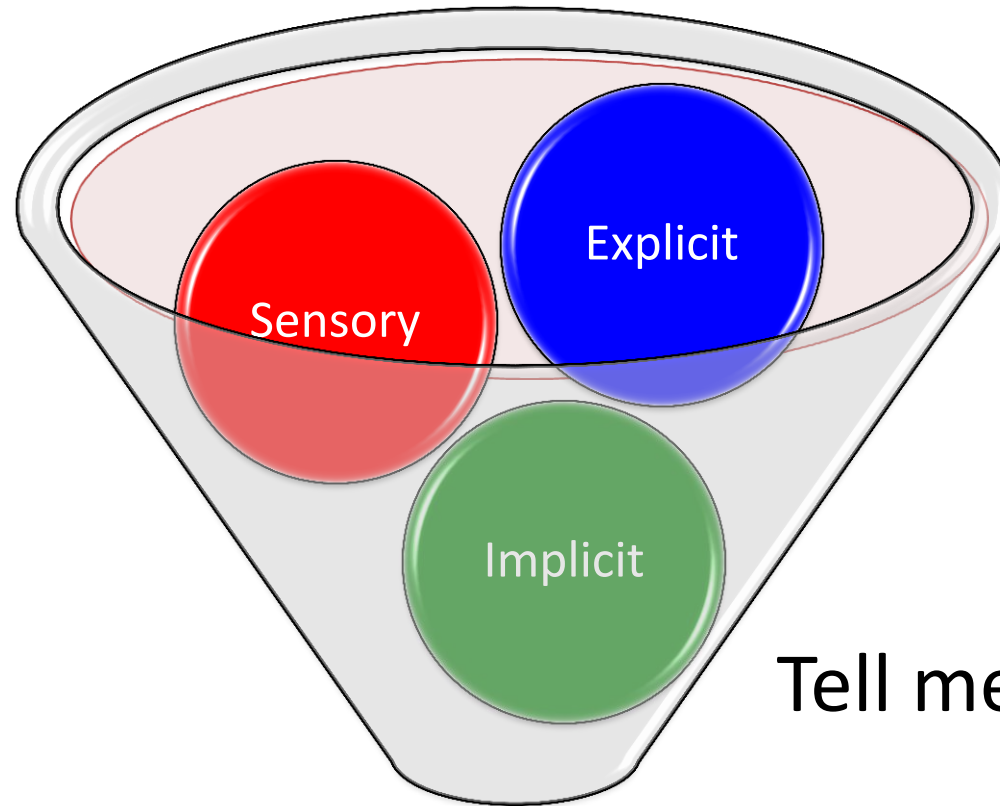
- Acknowledge their trauma/pain/difficult situation
 - What are you able to tell me about your experience?
 - Tell me more about ... or that...
 - Help me understand your thoughts when...?
 - What are you able to remember about...the 5 senses
 - What were your reactions to this experience
 - Physically
 - Emotionally
 - What was the most difficult part of this experience for you?
 - What, if anything, can't you forget about your experience?
 - Clarify other information and details...after you facilitate all you can about the "experience" (FETI Funnel)
 - Closure – prep for future information sharing

Demonstrate **genuine** empathy

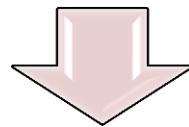
What are you **able** to remember about
your **experience**?

Tell me more...

The FETI Funnel



Tell me more...



Central

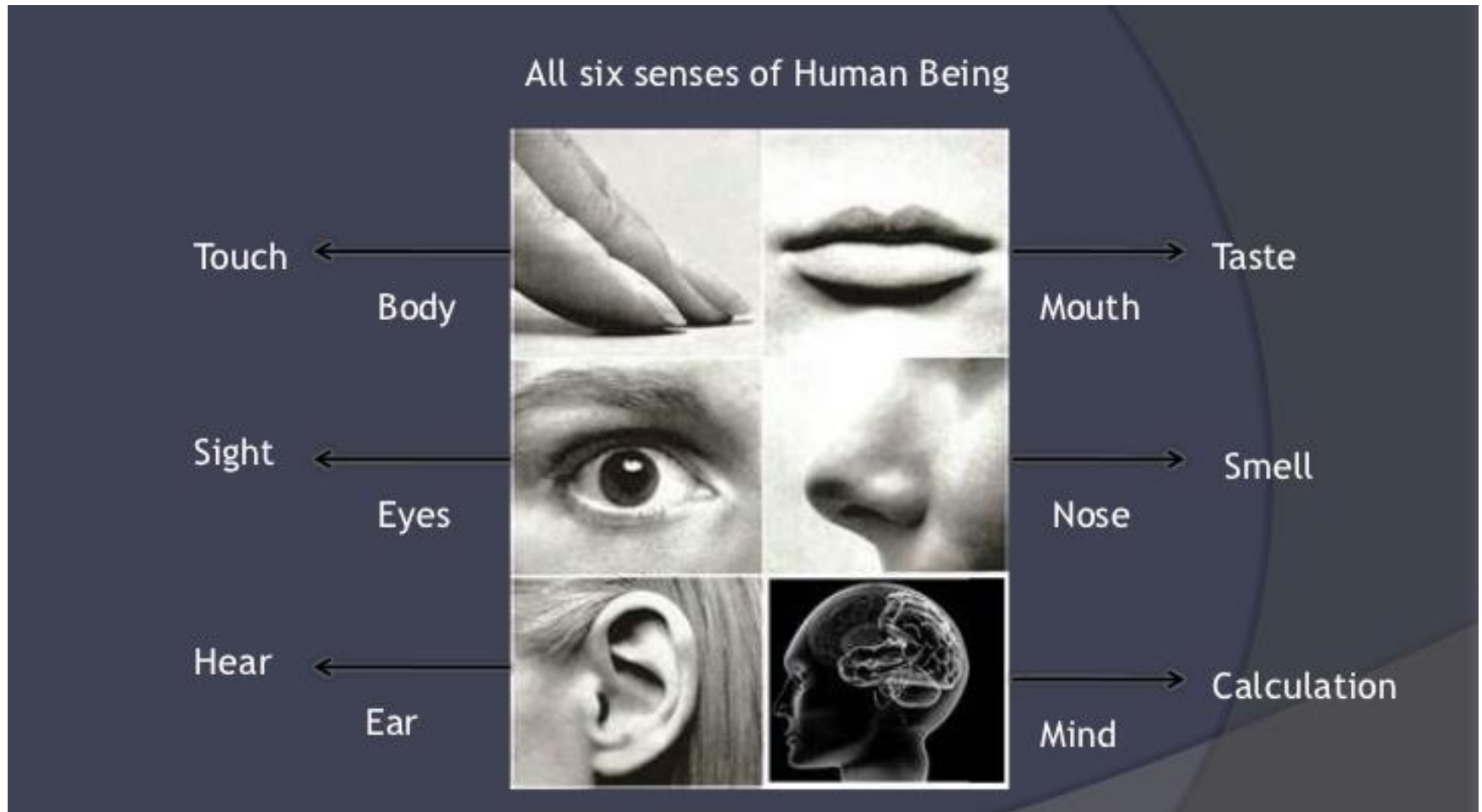
Suspect Reframing Questions

- **Did the victim consent to intercourse?**
- **Did you remove the victims clothes?**
- **How drunk was the victim?**
- **How drunk were you?**
- **Why would the victim/witnesses lie about what they told us?**
- **Did you have sex with that person?**
- **What was your intent when you went out that night?**
- **Who did you tell about this incident?**
- **Have you ever done anything like this before?**

Suspect Reframing Questions

- **Have you been truthful about what you told me?**
- **What do you think should happen to people who have done what you are accused of doing?**
- **What were you wearing that night?**
- **I don't think you intentionally did anything wrong, you just made a mistake, didn't you?**
- **What do you think happened to that person that night?**
- **Why do you think you are being accused?**
- **Have you ever been in this situation before?**

What are you **able** to remember about...



Conclusion



- The focus of interrogations should shift from a search for confessions, to a search for the truth
- Deception detection is an almost impossible task
- Investigative non-confrontational interviews yield far more information
- The suspect should provide far more information than we do
- Keep it simple – think outside the proverbial box
- Be creative!



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Independent Consultants | Educators



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