

Chapter 2

## MOTIVE: THE EXPLANATION PROCESS

(WHY PEOPLE DO WHAT THEY DO)

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### WHY?

- Investigation ... to inquiry ... to persuasion ... common thread ... WHY?
- Why do people do what they do?
- The investigators search for why.

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### MOTIVE

- Something that prompts a person to act in a certain way or that determines volition.
- Motive comes from Latin... *motus*, meaning "moved".
- Associated with motive are... willing, choosing, resolving, and deciding.

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## Free Will

- The investigator's interaction with the subject is not a type of counseling, in the usual sense of the word, but rather a type of inquiring and persuading that must not overstep the boundaries protecting the subject's free will.
- It is true, however, that the same techniques utilized by the psychologist -- listening, understanding, accepting, and helping the patient or client identify additional options -- are also the working tools of the investigator.

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## Motivation

- The main emotional and motivational bases for unacceptable acts are hate, fear, love, and the desire for personal gain.
- The investigator must be open to and understanding of the motivations of others.
- An investigator with these attributes may be able to find his way into the past and learn what motivated a particular criminal act -- and what might motivate an act of cooperation in the future.

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## Intent

- People act as they do primarily because they believe a particular course of action is the best solution to their current circumstances.
- The act is motivated by an INTENTION.
- A person acts as he or she does in the belief that the act serves his or her best interests.
- Simply put, people act out of self-interest.

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### What's important ...

- The important point for the investigator to remember and incorporate into his own work is that the more he knows about the subject, the more he will understand about the motive for the crime in question.
- To convey that same understanding to the subject is to increase significantly the investigator's chances of moving the subject from the unwilling chair to the willing chair.

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### 2 types that commit crime

- 1) "he's got a problem" – the individual's problem is thrown or driven toward an attempted resolution by means of a crime. The criminal's solution may or may not be related to money.
- Money may be an aspect, but it is not always the only motivation.
- By determining how and by whom the subject was "wronged" the investigator can understand and use that rationalization, including the energy that it generates.
- The investigator who can identify the subject's rationalization process, as well as convey an understanding of it, will significantly increase his chances of moving the subject from unwilling to willing.

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### ... and 2)

- 2) "just for the money"
- He has made a choice.
- Based on his circumstances, as he perceived them, this was his best option for obtaining money. Some people choose to obtain money through training and education that leads to better-paying jobs; others earn it by honest labor; and some, by way of crime, take it away from others.
- In each case, choices were made, some of which were socially acceptable and some of which were not.

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### Summary – p. 65

- By analyzing the words of two individuals, each of whom has had a lifelong association with crime, we have learned something about the complexities of human motivation.
- The precursors to any give individual's decision to commit a crime may be sociological or psychological, genetic or chemical.
- Conceivably, an incalculable number of combinations of those precursors could all, under certain conditions, produce the same end result – a criminal.

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### Summary, con't.

- The investigator seeks to understand an individual's past actions in order to influence his/her present or future actions.
- Therefore, the investigator must be alert to every word the subject utters.
- While all of those words reveal something about the subject, one word alone may contain the justification, the reason, the motive that "moved" the subject to do what he did.
- Rarely do such people intentionally reveal themselves to someone who cannot understand or accept them.

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### Chapter 3 THE PROCESS OF INQUIRY

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### ASPECTS OF INQUIRY: 1) Control

- Control is the foundation upon which the successful application of all inquiry techniques and skills must rest.
- The investigator *must* gain and continually maintain control of the interview.
- We utilize the interview process for the purpose of persuading the subject to take a certain action, changing the subject's attitude (mind), or stimulating emotion (or a different emotional state) within the subject.

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### What is control?

- Within the interview context, control is the ability to get the subject to respond.
- Response is the key element.
- The investigator endeavors to determine what he/she must do to provoke the desired response from the subject.
- The critical issue is whether the subject will respond as the investigator wishes.

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### Control, con't.

- Control over or power in the interview is derived from one's ability to persuade the subject to respond in the desired manner.
- An interview is neither an argument nor a debate.
- "I don't have anything to say to you. I want an attorney." That is it.
- Once the subject states this the investigator must stop the questioning immediately.

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### Other responses ...

- The response may occur in the form of anger, such as hostile remarks about you or your agency, or complaints about unjust treatments during the arrest, etc.
- As discouraging as these lower-number indicators may seem initially, they still serve as responses.
- Any response is better than nothing.

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### Investigator response ...

- Unfortunately, an investigator may react negatively to this type of response, that is, by becoming angry.
- Anger reflects a loss of self-control.
- Becoming angry amounts to giving control of one's emotions to the subject, which, of course, is the exact opposite of our goal – to control the subject's emotions.
- The investigator who cannot control himself cannot control the subject.

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### Personal involvement ...

- Whatever the subject did, he or she did not do it to any of us, personally.
- Becoming personally involved will adversely influence the approach utilized with a subject.

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## ASPECTS OF INQUIRY: 2) Plan

- An interview is a planned procedure.
- Each interview involves the development of a plan.
- Investigators often take the attitude that pre-interview planning is time-consuming and unnecessary.
- Nothing could be further from the truth.
- If you plan, then all you have to do is implement the plan.
- The investigator who begins an interview with no plan gives the subject a distinct advantage.

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## Pre-interview planning ...

- Thoroughly familiar with the substance of the case
- Without it, you will have difficulty identifying discrepancies or omissions in the subject's account.
- Once an interview begins, all new information is going to come from the subject, not from the case folder.

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## Pre-interview planning, con't

- Know everything about the subject
- Information that might at first glance seem insignificant could ultimately prove invaluable for gaining insight into the subject and his or her relationship to the incident under investigation.
- See Appendix D for an example of an Planning Form.

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### Questioning: The Instruments of Inquiry

- In the process of inquiring and persuading, nothing is more important than the question.
- Compare: Investigator and Fisherman
- Fisherman – variety of lures
- Investigator – more than one questioning strategy
- If that one strategy is all he has, all he knows, and that strategy isn't working, he is not going to catch anything (anyone) either.
- The investigator who can reach into the "tackle box" of questions and then use each kind effectively has a greater chance of success.
- Examples in interviews pp. 73 - 93

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### The Interviewing Sequence



- The strategy of dividing the interview into two primary stages we owe to Socrates.
- In his inquiry-and-persuasion dialogues with students and others with whom he interacted, he utilized both the *induction sequence*, which starts with details and goes on to form generalizations, and the *deduction sequence*, which starts with generalities and goes on to focus on specific details.

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### Maximum effectiveness ...

- Using these to sequences in combination.
- The interview may start with the deduction sequence and move from the general to the specific, with the investigator successfully gathering some information.
- But then the investigator may note that the subject is once again becoming upset, so he would initiate the induction sequence and return to those general areas already identified as nonthreatening to the subject.

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## SUMMARY

- The process of inquiry is an ancient phenomenon.
- Its successful outcome requires a knowledge of the various techniques available to the investigator, as well as their advantages and disadvantages in particular situations.
- The investigator must be able to phrase the appropriate questions effectively and apply them skillfully at the right time.
- The planning that the investigator is willing to invest and the application skill that he or she develops with experience will determine whether the process proves to be a productive or frustrating one for the investigator.

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## Chapter 4 THE PERSUASION PROCESS

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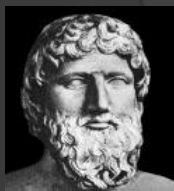
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*Rhetoric is the art of leading souls by persuasion. -- Plato*

- **Rhetoric** is the art of using language as a means to persuade. Along with grammar and **logic** or **dialectic**, rhetoric is one of the **three ancient arts of discourse**. From **ancient Greece** to the late 19th Century, it was a central part of Western education, filling the need to train public speakers and writers to move audiences to action with arguments.



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### Persuasion Process

- The ability to persuade is central to the investigator dealing with a subject in the “unwilling” chair.
- The investigator has a twofold challenge:
  - 1) Moving the subject from the “unwilling” to the “willing” chair, and
  - 2) Moving the subject in a manner that will withstand public scrutiny

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### Persuasion

- The investigator seeking the truth avoids both those means of persuasion that would produce a confession by an innocent party and those means of persuasion that are illegal.
- Within the context of a criminal investigation, persuasion becomes a uniquely personal form of human interaction.

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### Role of the parties ...

- Each role determines the main objective of the individual playing that role:
  - 1) the suspect’s objective is to withhold cooperation, while
  - 2) the investigator’s role is to gain it.
- The investigator has a prodigious (extraordinary) task: to replace the subject’s objective with his own objective.

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### No Formulas to Persuade

- ◉ Those who would persuade must develop the necessary abilities and techniques, and they must always be prepared to adjust and adapt.
- ◉ Therein lies the challenge.

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### Example used - Interview of Rick & John starting on page 100...

- ◉ Once the area of vulnerability has been identified, it can be utilized to affect behavior.
- ◉ Open-ended questions are the most effective ones for bringing these elements to the surface.

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### Direct vs. Indirect approaches

- ◉ **Direct approach** – tends to be most effective with subjects whose guilt is reasonably certain
- ◉ Subjects who can be persuaded by means of sympathy and understanding
- ◉ Subjects who are first offenders, and
- ◉ Subjects whose crimes were precipitated by passion, anger or jealousy

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### Direct approach, con't

- The investigator maintains a tight control over a highly structured level of contact with the subject.
- The investigator assumes role of dominance in the approach, which is centered on the investigator.
- There is no effort to conceal the interview's purpose.
- Usually more effective with unwilling subject.

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### Direct approach - disadvantage

- Overly structured or too tightly controlled interview may preclude the possibility of obtaining additional information.
- The rigidity of the interviewer and interview environment can have a counterproductive effect on the subject.
- The negative consequences include, but are not limited to, a reluctance to respond on the part of the subject.
- Any opportunities to observe the subject and thereby to learn from that observation are minimized.
- The rapport-building structure desired in the majority of interviews is weakened.

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### Direct approach - advantages

- Closed-ended questions are commonly used.
- Direct approach – efficiency under the appropriate circumstances: it takes less time and produces more information that can be verified.

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### Direct – Persuasive tactics

- ◉ Expressing confidence in the subject's guilt by pointing out the existence of overwhelming evidence, for example, or the physiological signs of guilt displayed by the subject.
- ◉ The investigator can also manipulate the subject's need to blame someone else or the subject's pride, or the investigator can minimize the seriousness of the crime.

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### Nondirective approach

- ◉ At its center, the subject rather than the investigator.
- ◉ Subject is encouraged to respond freely and to assume a greater role in directing the dialogue.
- ◉ Ideally, questions from the investigator are minimized.
- ◉ Those questions that most benefit the process are open-ended ones, followed by secondary questions and statements.

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### Nondirective approach

- ◉ The investigator is attentive to the subject, listens to each word, and reacts in a manner that encourages the subject to respond by sharing feelings, thoughts, and beliefs.

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### Nondirective - advantages

- The investigator has more opportunities to evaluate the subject, including the subject's more extended responses.
- It allows the investigator to observe the subject's mannerisms, as well as any changes therein, and the subject's emotional state.

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### Nondirective - disadvantages

- Both the content and the directional organization of the interview are relatively undefined (compared to the direct approach) and the process is more time-consuming.

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### Nondirective – persuasion techniques

- Expressing confidence in the subject's guilt by pointing out the existence of overwhelming evidence (including evidence refuting an alibi), the futility of denial, and the physiological signs of guilt.

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### Combined approach

- The persuasive investigator needs to have the flexibility and skill to integrate the direct approach with the nondirective approach to form the combined approach.
- The combined approach will utilize appropriate components of each of the other two approaches.

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### From John & Rick Interview

- The attitude and bearing of the investigator can directly affect the persuasion process.
- The investigator should not convey prejudice of the subject.
- Any prejudices the investigator has must be suppressed.
- As he or she interacts with the subject, the persuasive investigator his own emotions in order to focus on the subject and the objective of the interview.

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### John & Rick p. 110

- To succeed in controlling the subject and the direction of the dialogue, the investigator has to control himself.
- The investigator who sincerely seeks to understand the actions, motivations, and feelings of the subject is more likely to succeed than one whose attitude is indifferent or openly hostile.

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### John & Rick p. 110 con't

- The exchange is not a personal interaction.
- It is a professional encounter.
- Accept the subject as he is.
- This is not simply the "right" thing to do, it is the "smart" response.
- People do not react positively to an enemy. They do not act on the suggestions of an opponent.

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### John & Rick, p. 111

- The investigator must always structure the approach to the subject and the circumstances.
- Investigators typically have no authority to make promises. This area is a critical one mandating the investigator's thorough knowledge of his jurisdictional requirements.

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### Alabama Law ...

- " It has long been held that a confession, or any inculpatory statement, is **involuntary** if it is either **coerced** through force or induced through an **express or implied promise** of leniency. *Bram v. United States*, 168 U.S. 532, 18 S.Ct. 183, 42 L.Ed. 568 (1897). In *Culombe [v. Connecticut]*, 367 U.S. [568,] 602, 81 S.Ct. [1860,] 1879[, 6 L.Ed.2d 1037 (1961)], the Supreme Court of the United States explained that for a confession to be voluntary, the defendant must have the **capacity to exercise his own free will** in choosing to confess. If his capacity has been impaired, that is, "**if his will has been overborne**" by **coercion or inducement**, then the confession is involuntary and cannot be admitted into evidence. *Id.* (emphasis added).
- *Hunt v. State*, 2007 WL 4463947 (Ala.Crim.App. 2007)

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## Persuasive techniques

- The investigator must be able to access a variety of persuasive techniques to proact to various subjects and their particular needs.
- These various techniques are limited only by the initiative, experience, imagination, and ingenuity of the interrogator.
- The investigator can best determine which approach will be the most appropriate one from his observation of the subject.
- Pay attention to indicators of the subject's personality, such as speech mannerisms, facial expressions, physical movements, excessive perspiration, and other observable indicators.

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## Persuasive techniques p. 114-17

- The indirect approach
- The complete-file technique
- The I-know-everything technique
- The utility technique
- The quick-questioning approach
- The incentive technique
- The repetition technique
- The silent technique
- The change-of-scene technique
- Emotional technique
- Psychological technique
- Others... & Combination

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## Techniques

- The investigator who has the knowledge and ability to employ an appropriate (or an appropriate sequence of approaches) significantly increases his chances of influencing the subject's behavior in the desired ways.
- Above all, however, no technique that would cause an innocent person to confess or that would violate the legal or moral cannons of the profession should ever be used.

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### Evaluation process p. 120

- The evaluation process works both ways. How a subject responds to an investigator will be based to a large degree on that subject's evaluation of the investigator.
- The investigator must always appear to the subject, through his or her conduct and attitude, as an individual who is simply seeking the truth.
- The subject should be able to discern an attitude of understanding and sympathy in the investigator.
- In order to convey this impression, the investigator must always behave with a high degree of self-command, patience, perseverance, and integrity.

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### Actions of Investigator

- The investigator's use of language and the degree of respect for the subject as a person that he or she demonstrates must be such that the investigator is always prepared for anything that he or she says and does to be made public.
- The investigator must ensure that public scrutiny will reveal nothing less than his or her professionalism and ability.

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### Evaluation by Investigator

- Investigator must determine what type of subject he or she is confronting:
- Is this subject willing or unwilling
- Is this subject a career criminal or someone who is in this situation for the first time
- Subject is looking for help
- The subject must be brought to the point where he believes that to tell the truth, or to cooperate, will be in his own best interests.
- The subject will normally not respond positively to an enemy or an attitude of animosity.

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### In the end ...

- ◉ When a suspect confesses, he places his fate, his destiny, in the hands of the investigator.
- ◉ If the investigator is perceived as someone with integrity and empathy, the chances of gaining the subject's cooperation are greatly increased.
- ◉ Always remember, however, that throughout the entire drama the main character is the subject, not the investigator.

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### Next Week:

- ◉ Rabon Chapters 5 and 6  
- 53 pages
- ◉ Rabon assignments due
- ◉ Review for final exam

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