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# **Interviewing Suspects of Fraud:**

# An In-Depth Analysis of Interviewing Skills

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### Introduction

Interviewing is believed to be one of the most common law-enforcement activities (McGurk, Carr, & McGurk, 1993). It is also perceived as one of the most important (Milne & Bull, 2006). Indeed, Milne, Shaw, and Bull (2007) refer to interviewing as being at the heart of the investigation process. Despite this regularity and significance in criminal investigations, relevant research, whilst becoming increasingly prevalent over the last fifteen years, still remains at insufficient levels. Where studies have been conducted (both in the UK and elsewhere in the world), the focus has centered almost entirely on police officers' interviewing quality (e.g. Baldwin, 1992, 1993; Clarke & Milne, 2001; Moston, Stephenson, & Williamson, 1992). Thus, we are rather ignorant concerning those other organizations that increasingly also investigate criminal activity (Button et al., 2007; Walsh & Milne, 2008). For example, there are numerous government departments in Britain that are charged with the responsibility for investigating suspected criminal infractions in the area in which they possess administrative jurisdictions.

For the purposes of this study, the area of social-security-benefit fraud was examined, since more sanctions (prosecutions, cautions, and other formal penalties) are conducted yearly in this domain in the UK than in all other official organizations combined (except for the police). For example, in the period 2001-2008, the number of sanctions delivered annually has been between 30,000-55,000 (Cook, 2006; Walsh & Milne, 2008; Department of Work & Pensions, 2008). These figures suggest that at least 100,000 formal interviews with suspects occur each year investigating approximately £0.8 billion benefit fraud (Department of Work & Pensions, 2008).

The two organizations accountable for payment of social-security benefit in the UK (and for safeguarding the propriety of the system) are, firstly, the Department of Work and Pensions (DWP), a central government department whose Fraud Investigation Service (FIS) conducts investigations into suspicions of false social-security benefit claims. These benefits range from payment to certain client groups such as the unemployed who are actively seeking work, those who cannot work because of their illness or disability, and those who head single-parent households. The other organization consists of the range of Local Authorities (LAs) throughout Britain, responsible for administration of Housing Benefit and Council Tax Benefit (the former relates to support for those on low incomes to help pay for rent for the property in which they live, whilst the latter concerns assistance with local taxation needed to help pay for services such as schools and the police, fire, and refuse collection services). Due to their regular overlapping responsibilities, encouragement is made, where applicable, for the two organizations to investigate alleged benefit frauds jointly in line with the Scampion Report's recommendations (1999). The current study set out to address the severe shortfall of research into this important area of criminal investigations.

# Situating the topic of interviewing skills in benefit-fraud investigations within the current literature

As stated above, prior analysis of skills in the investigative interviewing of suspects has almost exclusively been perused through the lens of the police. However, Walsh and Milne (2008) conducted a study in which they found concerns with the standard of skills displayed in their sample of (tape-recorded) interviews conducted by FIS investigators (largely between 1999-2001). These authors expressed concerns regarding the lack of preparation, rapport, summarizing, and challenging of the suspect's account. Similarly, Shawyer (2006), in her smaller scale study of FIS practice, found deficiencies in rapport building and in interview closure. However, both these studies were undertaken during the time that FIS was introducing a large-scale national training program.

What emerged from the prior studies (see Milne & Bull, 1999) is that the coercive forms of suspect interviewing that were on occasion evident in police interviews in England and Wales prior to the introduction of the Police and Criminal Evidence Act 1984 had almost disappeared. However, following the introduction in the 1980s of PACE, accusatory yet submissive and inept approaches were found in studies conducted at the turn of the 1990s (e.g. Baldwin 1992, 1993; Moston, Stephenson & Williamson, 1992).

Studies that have been conducted following the introduction of the PEACE model have generally observed better police interviewing styles (Bull & Cherryman, 1995; Bull & Soukara, 2008; Clarke & Milne, 2001; Griffiths & Milne, 2006; McGurk, Carr, & McGurk, 1993). Clarke and Milne's wide-ranging study revealed that problems persisted, though, in connection with insufficient preparation and planning, shortfalls in rapport building, and inadequate listening skills. Amongst their recommendations was to organize training into a "tiered approach," structured in accordance with the investigative duties that the officers normally carried out. This resulted, for example, in those investigators dealing with the more serious crimes receiving advanced interview training whilst those whose duties involved investigating "volume" crimes received just the basic training in the PEACE model.

In contrast to the growing literature in the area of police interviewing, there has been only very limited analysis of the interviewing skills in the organizations that are the subject of the present study. For example, Walsh and Milne's study of FIS interviewing skills (2008), undertaken during the roll-out of their training program, revealed that in regard to a number of assessed behavioral competencies, those investigators who had been trained significantly outstripped the performance of their untrained colleagues. This was particularly noted regarding (i) actively encouraging the suspect to talk freely, (ii) developing topics for further discussion, (iii) exploring information received from the suspect, (iv) dealing with difficulties in the interview, and (v) the employment of pauses and silences during the interview. However, regarding most of the behavioral competencies examined in Walsh and Milne's study (and indeed, in overall interviewing skills) it was found that training had not markedly improved performance. Moreover, Walsh and Milne found that 42% of investigators were still demonstrating no more than adequate interviewing skills even after training, suggesting that training alone is insufficient either to improve interviewing skills or to sustain any improvement where it occurs (see also Clarke & Milne, 2001; Lamb, Sternberg, Orbach, Hershkowitz, Horowitz, & Esplin, 2002a; Lamb, Sternberg, Orbach, Esplin, & Mitchell, 2002b; Powell, 2002).

In attempting to identify what are the more important skills in interviewing, recent research of police interviewing in England undertaken by Soukara, Bull, Vrij, Turner, and Cherryman (2008) analyzed which interviewing tactics were present in police interviews in which confessions occurred. While these authors could not pinpoint with certainty which tactics were influential (also see Bull & Soukara, 2008) disclosure of evidence was evident in all cases where confession occurred in their study. Soukara et al. did find, regardless of interview outcome, a predominance of ethical interviewing styles exhibited towards suspects. Enlarging upon this matter of interviewer attitude, Holmberg and Christianson (2002) found that prisoners who stated that they confessed during their police interviews reported that the interviewers had adopted a "humanitarian" approach (rather than a dominating approach which was found to be associated with resistance). Similarly, other authors have emphasized the importance of building rapport at the start of the interview as likely to be vital to the overall efficacy of interviews with suspects in creating the environment where the suspects feels more able to speak freely (Collins, Lincoln, & Frank, 2002; St Yves, 2006). Griffiths and Milne (2006) also noted that interviewers encouraged suspects to talk freely, creating opportunities for

increasingly probing questions to be asked when any identified inconsistencies in the suspect's story emerged. Other research (e.g. Colwell, Hiscock, & Memon, 2002; Colwell, Hiscock-Anisman, Memon, Taylor, & Prewett, in press) has shown that maintaining good communication in interviews leads to the increased possibility of deception being uncovered.

In light of the foregoing, and given the absence of substantial amounts of research into the matter of interviewing suspects by law-enforcement agencies other than the police, the present study was undertaken. A further aim was to explore whether the various practices observed in prior (police) research would also be evident in investigators of social-security-benefit fraud.

### Method

For this study, 142 interviews with suspects, conducted independently or jointly by FIS and LA investigators, were examined. See the full article in <u>The Journal of Psychiatry & Law</u> for details.

## **Key findings from the study**

**General.** Breaches of PACE were judged to have occurred in just seven percent (N= 10) of the sample. Clarke and Milne (2001) found a similar level of incidence in their pivotal study. Such infractions in the current study included (i) the questioning of other attendees (such as friends or relatives accompanying the suspect in the interview) even though these third parties had not been cautioned as to the implications of their incriminations thus rendering any of their statements inadmissible within the legal process, (ii) investigators attempting inducements to obtain admissions by suggesting that it was beneficial for the suspect to tell the truth, thereby implying that a confession would ameliorate any subsequent sanction meted out, (iii) one instance where an oppressive interviewing style was observed, and (iv) two other interviews in which continued questioning of suspects occurred after the allegation of wrongdoing had been put to the suspect (i.e. the point where questioning should have ceased as required by PACE).

See the full article in *The Journal of Psychiatry & Law* for detailed results.

### **Discussion**

This study found particular concern regarding the mediocrity displayed by investigators when developing and, where necessary, challenging suspects' answers/accounts. Griffiths and Milne (2006) noted the advantages of carefully thought out questioning approaches in effective interview outcomes. In their study, providing encouragement for the suspect to supply an account before identifying any inconsistencies (with a series of increasingly probing questions) was seen as a particularly efficacious interview tool in uncovering possible wrongdoing. Recent research (Hartwig, Granhag, Strömwall, & Vrij, A., 2005; Hartwig, Granhag, Strömwall, & Kronkvist, 2006) has investigated the effects of "early" versus "late" revelations by interviewers of the evidence they have,

whilst ongoing research at the University of Leicester is comparing the effects of "early," "late" and "gradual" evidence revelations.

In the most ineffective interviews in the present study, there was a rigidity in the questioning tactics (which we termed as the "questioning-by-numbers strategy"), where enquiries were made of the suspect in an apparent pre-determined format, which was continued regardless of the responses provided by the suspects. This shows that it is not enough simply to plan interviews. It is necessary to design them with such creative foresight to include consideration of the potential array of anticipated responses and, as a consequence, contemplate a flexible repertoire of questioning and evidence-presentation strategies that may better place the interviewer to (i) overcome resistance, (ii) expose any inconsistencies in the suspect's story, or (iii), where the suspect is innocent, supply confidence that the suspect's defenses have been tested as much as can reasonably be expected. Such rigidity is arguably necessary when attending to the legal and procedural interview requirements (such as supplying time, date, location, caution, QB1B, tape notice, and identifying all present). However, when flair and flexibility were required in the undertaking of many other interviewing skills, problems emerged.

An example of this seen in the study occurred in ensuring suspects' understanding of the caution. Whilst the caution was delivered mostly satisfactorily, aside from cursory enquiries, suspects' comprehension of its meaning was rarely tested. Several studies have repeatedly shown that almost all suspects fail to grasp the caution's meaning, particularly when its various components are delivered in a single "block" of information as in almost every interview in the current study (Clare & Gudjonsson, 1994; Clare, Gudjonsson & Harari, 1997; Fenner, Gudjonsson & Clare, 2002; Rock, 2007). Nor has the concerns over suspects' understanding their rights in interviews been ones insular to England and Wales, with consternation regarding the Miranda warnings also being voiced in the United States (Everington & Fulero, 1999; Grisso, 1998; Kassin & Nowick, 2004). The current study also found that several investigators do not fully understand the caution, either, once they depart from their scripts, recalling Baldwin's (1993) comment that the caution is often recited unthinkingly. However, more positively, the study did find only few breaches of PACE, with barely any oppressive questioning, maximization or minimization tactics being used (contrary to the recommendations of Inbau et al., 2001, but in line with what was found by Bull & Soukara, 2008). These findings seem to suggest that the PEACE model has encouraged a more ethical approach by investigators. On the other hand, it was frequently found in the current study that interviewers failed to ask why suspects did not want legal representation.

Concerns over shortfalls in imaginative-interviewing strategies were also characterized in several ineffective interviews, which were typified by premature evidence presentation to the suspect followed by investigators seeming to give up when confronted with denials (similar to the findings of Moston et al., 1992). Rapport building was mediocre, as often investigators spent little time in building up the relationship with the suspects before embarking on a series of questions. Such questioning provided inadequate scope for suspects to supply their own account at their own pace (and, thus,

reduced the opportunity for investigators to identify, clarify and challenge any inconsistencies in that account). Collins et al. (2002) found that an increased amount of correct information was received with what they called the "rapport" interviewing style compared to the other observed styles (which these authors describe as "neutral" or "abrupt"). Holmberg and Christiansen's (2002) study found that offenders felt that effective interviewers were those who had listened to them.

Other concerns included the observed ordinariness of the approaches in presenting items of evidence to the suspect and, indeed, the regular absence of a well-crafted interview structure, which led to investigators consistently underachieving when attempting to show to the suspect the combined strength of the evidence (and the frailties of any received defenses). This is an important point as prior research has shown that the (perception of the) evidence strength can be a key factor in the decision to confess (Kebbell, Hurren, & Roberts, 2006; Moston et al., 1992).

One way of demonstrating the collective weight of evidence is by summarizing throughout the interview. The competencies regarding approaches to this task were assessed
in the current study as amongst the poorest demonstrated. This competency can display common understanding between the investigator and the suspect and demonstrate
active listening, which can encourage further information (Hargie & Dickson, 2004;
Milne & Bull, 1999). Moreover, as Rackham (2003) points out, summarizing helps
highlight any contradictions and gaps, assisting the interviewer to devise subsequent
questioning strategies (whilst allowing a momentary reprieve from the high cognitive
load that hampers interviewers when constantly questioning). Continuing this theme,
the absence of intermittent summarizing was also a missed opportunity to demonstrate,
by recapitulation, the collective strength of many individual items of evidence already
presented separately to the suspect. As mentioned above, the skilful disclosure of
evidence by the interviewer may well be important in moving suspects from denial to
admission (Bull & Soukara, 2008: Kebbell et al., 2006). Final summaries can also allow
provision for bringing the interview to an appropriate closure (Albert & Kessler, 1976).

The poor displays regarding summarizing were therefore another crucial weakness in the interviewers.

There were also concerns regarding other matters. For example, the revealed evidence often failed to uncover flaws in the suspect's story. This failure was caused, it is argued, not only by inadequate preparation (manifest in largely ineffective questioning strategies, as noted above) but also by shortfalls in investigative activity (i.e., evidence gathering) before the interview. Only limited evidence was presented in many cases, which could reflect that investigators are interviewing far too early in the investigation process, probably either as a result of not envisaging potential defenses and/or due to guilt presumption (Stephenson & Moston, 1994; Walsh & Milne, 2007). (It is also possible that after due investigation, the exhibited evidence is the totality of the investigative case and therefore some interviews take place as a sort of "fishing expedition" as the evidence gathered is not, in sum, particularly strong.)

Whichever of these two possible scenarios apply, it is felt that that the underlying belief of investigators is an optimistic notion that the suspect, once presented with the evidence they have, will openly admit guilt. This pre-supposition of guilt by interviewers, despite being aware of the shortfalls in evidential strength, is also what Mortimer (1994) found in her police research (see also Mortimer & Shepherd, 1999). Our findings could be a result of the legacy of the simpler interviews where culpability is openly and quickly acknowledged by the suspect without too much intervention from the investigator. However, in more complex fraud interviews (including cases where resistance occurs) the frailties of such an approach quickly become obvious, with investigators unsure of what to do in the face of denials other than proceeding to repeat questions, often in the vain hope that at some point the suspect would capitulate and confess (see Milne & Bull, 1999 for a review of prior research on this "accusatory" style).

When examining those interviews conducted jointly by both DWP and LA investigators, a few exemplary examples of interviewing (and indeed co-working) were apparent. However, in the less effective cases such interviews could be described more as "disassociate" than "joint" where, at worst, in the poorer examples, it was as if the "second" investigator present seemed unaware of what the other investigator had just asked.

The closure phase was, by some margin, the area in need of greatest improvement. Despite the findings of Walsh and Milne (2007) as to what investigators *said* were the important components of this phase (i.e., summarizing the interview, asking for any additional comments, informing what would happen next, and leaving the suspect with a professional image of the interviewer), these were rarely manifest. Comments received verbally by the first author from investigators, in regard to informing the suspects of the next steps after the interview, are that the options available are too complex to state on tape and so are stated at length off tape. Whilst this provides some comfort that suspects are being told of what might happen next, their omission from the tapes provides no certainty as to whether this is being undertaken effectively or whether it is understood by the suspect. This approach also provides no safeguard for investigators against accusations that any subsequent admissions in later interviewers were caused by conversations off tape which, either through oppression or inducement, were alleged to have persuaded the suspects to discontinue their earlier denials of offending.

The importance of training and subsequent supervision/refresher training in improving subsequent performance has been revealed by Lamb et al. (2002b). For many investigators, it has been some years since their original training and the findings from this study suggest that refresher training, focusing entirely on the advanced skills required in the more challenging interviews, is now overdue. It is particularly concerning that some of the weaknesses found in this study mirror findings (more than fifteen years prior) revealed in earlier police studies that were undertaken *prior* to the introduction of the PEACE model.

The current study found many behavioral competencies that were poorer than police performance found in Clarke and Milne's (2001) study. Given that the findings of Clarke and Milne's study were mediocre enough to prompt the British police to adopt revised

approaches to training and supervision of interviews (which have now been integrated into the highly promising Professionalizing Investigations Program, or PIP), it is argued that the urgency to review benefit-fraud investigations is even more keenly warranted in light of this unfavorable comparison. Interestingly, some progressive local authorities have invested in "advanced-interviewing courses" which have been felt by their managers to have bolstered interviewing performance (for example, personal communication, Rosenbloom, 2007). Curiously, FIS investigators were also invited on these courses but their senior managers were reported to have declined the opportunity for their staff to attend.

Factors such as case characteristics/complexity, suspects' antecedents, and interviewer experience were not taken into account in the present study as this was intended as a snapshot of skills actually displayed in practice. The sample was somewhat skewed towards the more difficult interviews, given that the tapes were deliberately requested to be of not less than fifteen minutes duration and therefore probably contained the more demanding of benefit-fraud interviews. This study, therefore, may be seen as unrepresentative of typical interview samples of benefit-fraud investigations. However, it is contended that any sample which contains the more demanding interviews is better positioned to show what skills the investigators are fully capable of, particularly in the Account phase, than a sample which contains suspects who tend to admit swiftly to their wrongdoing.

Our future research on the interviewing of suspects of fraud will be examining whether there is any association between better performance and outcomes. We will also conduct an examination of the final phase of the PEACE model (Evaluation) to determine if there is any causal linkage between the mediocre performance seen in this study and investigators' (and their superiors') approaches to evaluating interviews. This barely researched phase of the PEACE framework is supposed to be the basis from which investigators can improve their interviewing techniques. Our future research will be examining if, and how effectively, this task is undertaken by conducting a survey of investigation professionals. Moreover, where investigators have undergone the "advanced-interviewing training" mentioned above, we will examine whether this training has had any significantly beneficial impact on interviewing performance. Additionally, future research will include an examination both of interviewer tactics (see Bull & Soukara, 2008) and a conversational analysis of interviews (see Haworth, 2006; Hill, 2003) in order to identify what is said and done in interviews that moves suspects from denial to admission.

While Bull and Soukara found a number of tactics present in interviews containing confessions (e.g. disclosure of evidence, usage of open, leading and repetitive questions, emphasizing contradictions, positive confrontation, and challenging the suspect's account), their research did not measure actual skills levels of these tactics (just the extent to which they were used in the interview). Our forthcoming studies therefore will also be considering how effectively interviewers undertake those tactics and will also incorporate measurements of the strength of evidence, not included in Bull and Sou-

kara's research, but found elsewhere to be influential when suspects admit wrongdoing (e.g., Kebbell et al., 2006; Moston et al., 1992).

In summary, the current study found that all but one of the 34 interviewer behaviors fell below the expected PEACE standard. Thus, skilled interviewing by benefit-fraud investigators is rare.

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