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Developing Rapport and Trust in the Interrogative Context:
An Empirically-Supported and Ethical Alternative to Customary Interrogation Practices

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Abstract (150 words)

Decades of behavioral science research consistently demonstrates the advantages of employing a rapport-based approach to investigative and intelligence interviewing. Evolving from identifying the problematic procedures of accusatorial approaches, current research has turned to a more proactive study of techniques and tactics that align with a rapport-based and information-gathering framework that is effective for eliciting comprehensive and reliable information. Despite a growing body of research supporting the use of this framework, it stands in contrast with an accusatorial approach that is common practice in North America (and other parts of the world). This chapter reviews empirically supported approaches for investigative interviewing (including aspects of effective elicitation and deception detection) and describes recent research on tactics for developing rapport and trust in interrogative context. Herein we distinguish how trust and rapport-based techniques differ from currently employed confrontational techniques, and provide operational examples of how these tactics have been employed in the field.

Abstract (215 words)

Decades of behavioral science research consistently demonstrates the advantages of employing a rapport-based approach to investigative and intelligence interviewing. Evolving from identifying the problematic procedures of accusatorial approaches, current research has turned to a more proactive study of techniques and tactics that align with a rapport-based and information-gathering framework that is effective for eliciting comprehensive and reliable information. Despite a growing body of research supporting the use of this framework, it stands in contrast with an accusatorial approach that is common practice in North America (and other parts of the world). In this chapter, we review empirically supported approaches for investigative interviewing and explain how they differ from the currently employed confrontational techniques. We describe questioning tactics that have been shown to effectively lead to information elicitation and deception detection and tactics to create a working relationship between the interviewer and a subject, by increasing rapport and trust in interrogative context. We provide a more in-depth review of tactics that help establish conversational rapport, and specific rapport-building tactics, such as self-disclosure, commonalities, affirmations and verifications. We also describe trust-building tactics that increase both cognitive and affective trust through reciprocity, demonstrating trustworthiness, and a willingness to trust. Finally, we provide operational examples of how the tactics described throughout the chapter have been employed in the field.

Developing Rapport and Trust in the Interrogative Context:

An Empirically-Supported and Ethical Alternative to Customary Interrogation Practices

The customary knowledge that informs common practice of interrogation in North America and other parts of the world, in both the law enforcement and intelligence contexts, is based on the unsupported, but nonetheless entrenched, belief that an accusatorial approach—and sometimes even more coercive methods—is the most effective strategy for interrogating a suspect or a source.¹ Policy, training doctrine, and practice remain consistent with this perspective despite decades of research showing that the use of these techniques is problematic in that they reduce information yield (especially verifiable details) and increase the potential for extracting a false confession.² Over the past several decades, a wealth of research has demonstrated the shortcomings of accusatorial techniques, and researchers have recently begun to investigate potential alternatives to these techniques, providing practitioners with evidence-based interrogation techniques.³ This chapter provides a brief review of the development these evidence-based techniques and describes how they compare with the more commonly used accusatorial approach. Further, this chapter provides an overview of essential components of this information-gathering model, including the broad frameworks within which the interrogation should be conducted (i.e., information-gathering and rapport-based) and the three prongs of

¹ See CA, Meissner, CE, Kelly, and SA Woestehoff, ‘Improving the effectiveness of suspect interrogations’ [2015] 11 *Annual Review of Law and Social Science* 211

² SM Kassin, SA Drizin, T Grisso, GH Gudjonsson, RA Leo, and AD Redlich ‘Police-induced confessions: Risk factors and recommendations’ [2010] 34 *Law and Human Behavior* 3
GD Lassiter and CA Meissner (eds) *Police interrogations and false confessions: Current research, practice, and policy recommendations* (Washington, DC: American Psychological Association 2010)

³ CA Meissner, F Surmon-Böhr, S Oleszkiewicz, and LJ Alison ‘Developing an evidence-based perspective on interrogation: A review of the US government’s high-value detainee interrogation group research program’ [2017] 23 *Psychology, Public Policy, and Law* 438
see also SE Brandon and M Fallon this volume

empirically supported techniques (e.g., memory recall, deception detection, and trust and rapport building). We then provide a more in-depth description of specific tactics shown to be effective in building rapport and trust in an interrogative context, thereby yielding more accurate information from resistant subjects. Finally, we illustrate how these techniques have been operationalized in the field with brief case studies.

I. The Accusatorial Approach

Several fundamental misconceptions have led to the development and common use of an accusatorial approach when interrogating subjects. There is, for example, a general belief among interrogation professionals that an innocent person would never falsely confess.⁴ Similarly, interrogators incorrectly believe they can reliably distinguish guilt from innocence,⁵ yet they hold a bias towards seeing guilt and deception when it comes to suspects.⁶ Given these beliefs, interrogators often feel justified using coercive methods (e.g., threats and psychological manipulation) on a suspect because the only imagined outcome would be a guilty subject confessing. Thus, the interrogator seeks to control the situation and the subject to secure a confession, thereby providing themselves with a strong tool to convince a jury of the subject's guilt.⁷

Accusatorial tactics are varied and involve ploys such as isolating a subject, presenting false evidence during the interrogation, confronting a subject with the inevitability of their guilt,

⁴ RA Leo 'False confessions: Causes, consequences, and solutions' [2001] 36 In SD Westervelt and JA Humphrey (eds) *Wrongly Convicted: Perspectives on Failed Justice* (Newark: Rutgers University Press)

⁵ SM Kassir 'Confession Evidence: Commonsense Myths and Misconceptions' [2008] 35 *Criminal Justice and Behavior* 1309

⁶ CA Meissner and SM Kassir "'He's guilty!": Investigator bias in judgments of truth and deception' [2002] 26 *Law and Human Behavior* 469

CA Meissner and SM Kassir 'You're guilty, so just confess!' [2004] 85 In GD Lassiter and EF Loftus (eds) *Interrogations, confessions, and entrapment* (Boston, MA: Springer)

⁷ SM Kassir 'Why confessions trump innocence' [2012] 67 *American Psychologist* 43

offering moral justification for the crime of which they are accused, implying leniency in exchange for a confession, and both subtly and overtly forcing responses to direct, closed-ended, and suggestive or leading questions. Even if not purposefully coercive, the mindset surrounding these tactics implies the subject's guilt and limits their ability to demonstrate their innocence. Indeed, in this model, the interrogator does most of the talking and is actually taught to interrupt any denials offered by the subject.⁸ Further, closed-ended and leading questions, by nature, do not provide the subject with the opportunity to explain their side of the story.

Such accusatorial tactics are generally conceptualized as maximization and minimization. Maximization involves the more overt use of pressure in which an interrogator seeks to maximize a subject's perceptions of their own culpability by confronting them with overwhelming evidence of their guilt (including the presentation of false evidence or evidence bluffs), exaggerating the degree of responsibility and consequences associated with the act, labeling the subject a liar, and preventing the subject from denying their involvement. In contrast, minimization involves the use of tactics that seek to diminish a subject's perceptions of their culpability and therein the consequences associated with providing a confession. Such tactics often include offering "themes" or justifications for how and why the act occurred, absolving the subject of criminal responsibility for the act and assuaging perceptions of guilt (e.g., it was an accident, you were provoked, you were under the influence of drugs or alcohol, it was self-defense). While courts in the U.S. have generally permitted the use of these techniques and training academies at the local, state, and federal levels have regularly offered such tactics as doctrine and best practice, several decades of research have suggested that the application of

⁸ e.g. FE Inbau, JE Reid, JP Buckley, and BC Jayne, *Criminal interrogation and confessions* (5th edn, Jones & Bartlett Learning 2013)

accusatorial tactics can lead to less diagnostic outcomes—with innocent persons being significantly at risk for providing a false confession under such conditions.⁹

Accusatorial techniques are problematic for several reasons, both legal and ethical. As indicated above, they are a primary cause of false confessions, which have led to wrongful convictions and innocent subjects spending years in prison for crimes they did not commit¹⁰ while leaving the guilty perpetrator free and able to commit more crimes. Additionally, they encourage a much harsher and control-based ethos in the interrogation room that has the potential to lead to the use of more physically and psychologically abusive tactics. Take, for example, recent allegations of physical abuse and coercion by Kriston Kato, a former Chicago police detective. Kato was accused of dozens of coerced confessions and abusive interrogation practices that involved physically beating suspects, leaving them for days without food or water, and threats of death or harm to loved ones. Jim Mullenix, a former defense attorney, aptly describes the escalation that can take place when an accusatorial framework is adopted: “They get a case, they want to try to solve it. They think that defendants are going to lie, so they’ll say: ‘I know he did it. We just need to bend the rules ourselves to ensure that this guy gets convicted’”.¹¹ Not only are accusatorial tactics problematic with respect to producing less diagnostic evidence, but the use of such approaches can also negatively affect perceptions of

⁹ see Kassin (n 2)

CA Meissner, AD Redlich, SW Michael, JR Evan, CR Camillett, S Bhatt, and SE Brandon, ‘Confession-oriented and information-gathering interrogation methods and their effects on true and false confessions: A meta-analytic review’ [2014] 10 *Journal of Experimental Criminology* 459

¹⁰ www.innocenceproject.com

¹¹ K Phillips, ‘Dozens claim a Chicago detective beat them into confessions. A pattern of abuse or a pattern of lies?’ *Washington Post* (Washington, DC, 9 June 2018).

<https://www.washingtonpost.com/news/post-nation/wp/2018/06/09/dozens-claim-a-chicago-detective-beat-them-into-confessions-a-pattern-of-abuse-or-a-pattern-of-lies/> accessed 7 December 2018

procedural justice with respect to interactions with law enforcement. More generally, their use can impede the relationship between police professionals and the public—potentially undermining a population’s willingness to cooperate with law enforcement in the future.¹² Finally, accusatorial techniques are typically used when a subject is viewed as guilty despite the system’s presumption of their innocence before the law, representing a legal impingement on the rights of the accused prior to conviction by a court of law.

As described above, accusatorial tactics can be ethically questionable; however, they are generally distinguished from torture. Indeed, these tactics were developed as an alternative to torture—more conventionally referred to as ‘the third degree’ in law enforcement contexts. In 1931, the U.S. Wickersham Commission Report condemned law enforcement’s use of physically coercive tactics (e.g., hitting suspects with a rubber hose, depriving them of food and/or sleep) to secure confessions, leading to a public rebuke and prohibition against their continued application. Accusatorial tactics were developed as a replacement to the third degree and hailed as scientific, although they were based only in experience and anecdotal evidence.¹³ Given ethical and legal concerns regarding the use of such “torture” tactics described above, there is limited data with which to assess the efficacy of coercive practices.¹⁴ While accusatorial tactics

¹² J Goodman-Delahunty, K O'Brien, and T Gumbert-Jourjon, ‘Police professionalism in interviews with high value detainees: Cross-cultural endorsement of procedural justice’ [2013] 13 *Journal of the Institute of Justice and International Studies* 65

KA Roberts, ‘Police interviews with terrorist suspects: Risks, ethical interviewing and procedural justice’ [2011] 13 *British Journal of Forensic Practice* 124

JL Woolard, MPPS Harvell, and S Graham, ‘Anticipatory injustice among adolescents: Age and racial/ethnic differences in perceived unfairness of the justice system’ [2008] 26 *Behavioral Sciences & the Law* 207

¹³ RA Leo, ‘From coercion to deception: The changing nature of police interrogation in America’ [1992] 18 *Crime, Law and Social Change* 35

¹⁴ A Vrij, CA Meissner, RP Fisher, SM Kassin, CA Morgan III, and SM Kleinman ‘Psychological perspectives on interrogation’ [2017] 12 *Perspectives on Psychological Science* 927.

could be regarded as categorically distinct from torture, others have considered them as simply lower on a continuum of possible tactics that apply physical and psychological pressure.¹⁵ Thus, in the current chapter, we contrast the efficacy of accusatorial tactics with that of an information-gathering approach (also referred to as a rapport-based approach). As described below, research suggests that whereas a rapport-based approach creates an environment that fosters cooperation and accurate memory recall, the application of pressure (both physical and psychological), to the extreme when it becomes torture, can do the opposite by breeding resistance and memory deterioration,¹⁶ resulting in unreliable intelligence.¹⁷

II. The Information-Gathering Approach

Spearheaded by efforts in the United Kingdom to remedy the shortcomings of the accusatorial approach, a model of information-gathering interviewing (i.e., PEACE model¹⁸) was implemented in 1992. Other European countries have followed suit and adopted similar models,¹⁹ while researchers and practitioners have built upon this alternative model and field-tested strategies and tactics that have demonstrated utility with victims, witnesses, and suspects.²⁰ These techniques are evidence-based because they have been evaluated under controlled conditions in the laboratory and tested for their potential to both enhance information yield and decrease the possibility of obtaining false confessions. Subsequently, the approaches are field-tested and assessed for the extent to which they can be effectively trained to

¹⁵ J Bell ‘‘Behind this mortal bone’’: The (in)effectiveness of torture’ [2008] 83 Ind LJ 339

¹⁶ see S O’Mara, this volume

¹⁷ Vrij (n 14)

¹⁸ see R Bull and A Rachlew, this volume

¹⁹ e.g. IA Fahsing, and A Rachlew ‘Investigative interviewing in the Nordic region’ [2009] 39 In T Williamson, B Milne, and S Savage (eds) *International developments in investigative interviewing* (Routledge)

²⁰ Meissner (n 1)

Meissner (n 3)

see also SE Brandon, M Fallon, this volume

interrogation professionals.²¹ Thus, from an efficacy and diagnosticity perspective, information-gathering techniques are both safer and more productive for all parties involved (and more probative for constituents outside the interrogation room such as the courts and the community). With this approach, resistance is no longer addressed with force and coercion—in contrast, a more collaborative and fostering environment is created that includes attempts at building rapport and trust between the interrogator and the subject.

Beyond the ethical and legal benefits of safeguarding against false confessions, the information-gathering approach provides a shift in mindset away from the aforementioned misconceptions that lead to the use of coercion. In particular, this approach emphasizes a more neutral framework wherein the interrogation becomes an investigative tool to gather information rather than a culminating event that ultimately produces a confession. That is, the goal is no longer to obtain a confession—rather, it is to elicit as many insights and verifiable details as possible from a subject. Guilt is no longer established through a confession—instead, culpability is supported through information collected during the interview itself, such as the subject’s statement as it relates to the events in question and the evidence presented by the investigator. This type of statement can be just as powerful in court as a confession.²² Further, a suspect might implicate themselves during an information gathering interview by providing information relevant to an essential element of an offense. For example, having previously collected other evidence, an investigator might only need to place a suspect at a certain location at a certain time to obtain a conviction. Gleaning this information through proper questioning techniques,

²¹ Meissner (n 3)

²² L Brimbal, and AM Jones, ‘Perceptions of suspect statements: A comparison of exposed lies and confessions’ [2018] 24 *Psychology, Crime & Law* 156

building rapport and trust would provide for an important and probative admission –necessary for conviction— without necessitating a full confession.

This model is referred to as “information-gathering” because it is guided by such an ethos. In stark opposition to the accusatorial model, where the interrogator is neither interested nor able to gather a full and accurate recount of the subject’s story, this is the principal purpose of the information-gathering approach. To achieve this goal, researchers have concentrated on three facets: effective questioning tactics and information elicitation through accurate memory recall, more diagnostic approaches to credibility assessment that utilize a cognitive- rather than anxiety-based model of deception, and empirically-supported approaches to developing cooperation via rapport and trust building tactics. We briefly review the first two facets of this approach before more closely describing the influence of rapport and trust building tactics, including how they have been conceptualized, researched, and used in the field.

A. Effective questioning tactics

The first and arguably most foundational step to an information-gathering approach involves the nature of the questions that are asked. The primary use of closed-ended and leading questions that dominate an accusatorial approach are to be avoided to limit the potential for bias and memory contamination. Instead, best practices for information elicitation include the use of open-ended questions²³ that are structured into questioning funnels where, when appropriate, an interrogator can probe and ask a limited number of purposeful and appropriate closed-ended

²³ C Clarke, and R Milne, *A national evaluation of the PEACE Investigative Interviewing Course* (London: Home Office 2001)

D Walsh, and R Bull, ‘What really is effective in interviews with suspects? A study comparing interviewing skills against interviewing outcomes’ [2010] 15 *Legal and Criminological Psychology* 305

questions.²⁴ The use of memory enhancing techniques is also encouraged. For example, the Cognitive Interview (CI) is an empirically-based interviewing technique supported by over 30 years of research demonstrating its ability to significantly enhance the recall information from memory in witnesses and victims.²⁵ The CI is steeped in theories of memory retrieval and has been rigorously tested in the laboratory²⁶ and in the field.²⁷ The technique consists of a variety of tactics that enhance the quality and quantity of information recalled. As a first step in an encounter, the interviewer attempts to build rapport with the witness or victim (e.g., using active listening techniques) followed by the elicitation of the fullest possible narrative. The interviewee is then asked to reinstate the physical and psychological context by imagining themselves back at the place and time in which they experienced the event, and then asked to report everything about the event that they can recall (even partial information). Finally, an interviewer might engage one or more of the mnemonic strategies that have been shown to increase memory recall, for example by asking the interviewee to take a different perspective when recalling the event, attempting to recall the event in reverse chronological order, or to draw a sketch of a location or scene. Recent studies have also demonstrated that elements of the CI are more effective than accusatorial approaches for eliciting information from non-cooperative subjects,²⁸ and that their

²⁴ MB Powell, RP Fisher, and R Wright 'Investigative interviewing' [2005] 11 In N Brewer and KD Williams (eds) *Psychology and law: An empirical perspective* (The Guilford Press)

²⁵ RP Fisher, and RE Geiselman, *Memory-enhancing techniques for investigative interviewing: The Cognitive Interview* (Charles C. Thomas 1992)

A Memon, CA Meissner, and J Fraser, 'The cognitive interview: A meta-analytic review and study space analysis of the past 25 years' [2010] 16 *Psychology, Public Policy, & Law* 340

²⁶ see Memon (n 25)

²⁷ e.g. BR Clifford, and R George, 'A field evaluation of training in three methods of witness and victim investigative interviewing' [1996] 2 *Psychology, Crime & Law* 231

²⁸ JR Evans, CA Meissner, AB Ross, KA Houston, MB Russano, and AJ Horgan, 'Obtaining guilty knowledge in human intelligence interrogations: Comparing accusatorial and information-gathering approaches with a novel experimental paradigm' [2013] 2 *Journal of Applied Research in Memory & Cognition* 83

use can enhance an interviewer's ability to distinguish between liars and truth tellers, as discussed below.²⁹ Finally, the CI has also been shown to be significantly more effective at eliciting information than a standard interview protocol that is trained to federal law enforcement in the United States.³⁰

B. Empirically-based lie detection techniques

Decades of research on deception have led to the conclusion that lying is a task in which most subjects engage with a fair degree of both frequency and skill. On the other hand, several large-scale analyses of the literature have concluded that people in general, and investigators in particular, are not very adept at detecting deception.³¹ This is due primarily to the fact that although we appear to rely on the correct cues when trying to judge a liar,³² these cues are weak and unreliable.³³ The conclusion that observation alone is not sufficient to detect lies has produced theoretically driven research on interviewing strategies that can increase the detectability of cues to deception. Two such empirically-supported approaches are discussed below.

1. A cognitive approach to deception detection

²⁹ JR Evans, SW Michael, CA Meissner, and SE Brandon 'Validating a new assessment method for deception detection: Introducing a psychologically based credibility assessment tool' [2013] 2 Journal of Applied Research in Memory & Cognition, 33

RE Geiselman, 'The Cognitive Interview for Suspects (CIS)' [2012] 30 American Journal of Forensic Psychology 5

³⁰ JR Rivard, RP Fisher, B Robertson, and D Hirn Mueller 'Testing the cognitive interview with professional interviewers: Enhancing recall of specific details of recurring events' [2014] 28 Applied Cognitive Psychology 917

³¹ CF Bond, and BM DePaulo, 'Accuracy of deception judgments' [2006] 10 Personality and Social Psychology Review 214

³² M Hartwig, and CF Bond, 'Why do lie-catchers fail? A lens model meta-analysis of human lie judgments' [2011] 137 Psychological Bulletin 643

³³ BM DePaulo, JJ Lindsay, BE Malone, L Muhlenbruck, K Charlton, and H Cooper, 'Cues to deception' [2003] 129 Psychological Bulletin 74

Deception theory suggests that lying is more cognitively demanding than telling the truth.³⁴ Indeed, when lying, one must not only conceal the truth but also create the lie and monitor both throughout questioning. Given this, increasing the cognitive load of the subject during the interview has been shown to make deception more difficult, and to therein make it easier to distinguish deception from the truth.³⁵ Indeed, researchers have investigated several methods to impose cognitive load (e.g., asking unanticipated questions;³⁶ recounting an event in reverse order)³⁷ that have demonstrated an improvement in people's ability to detect lies during interviews. A related finding is that the most diagnostic cues to deception are related to the stories and details provided by the subject³⁸ –in fact, training subjects to detect more cognitive or story-based cues leads to improved deception detection performance.³⁹ Increasing the amount of details and cognitive cues available from the narrative by, for example, using a Cognitive Interview⁴⁰ or introducing a model statement (which conveys to the subject the detailed style of

³⁴ SE Christ, DC Van Essen, JM Watson, LE Brubaker, and KB McDermott, 'The contributions of prefrontal cortex and executive control to deception: Evidence from activation likelihood estimate meta-analyses' [2008] 19 *Cerebral Cortex* 1557

³⁵ A Vrij, 'Myths and opportunities in verbal and nonverbal lie detection' 225 In M St. Yves (ed) *Investigative interviewing: The essential* (Carswell 2014)

³⁶ e.g., T Sooniste, PA Granhag, M Knieps, and A Vrij, 'True and false intentions: Asking about the past to detect lies about the future' [2013] 19 *Psychology, Crime & Law* 673

³⁷ e.g., A Vrij, S Leal, S Mann, and R Fisher, 'Imposing cognitive load to elicit cues to deceit: Inducing the reverse order technique naturally' [2010] 18 *Psychology, Crime & Law* 579

³⁸ BM DePaulo, JJ Lindsay, BE Malone, L Muhlenbruck, K Charlton, and H Cooper, 'Cues to deception' [2003] 129 *Psychological Bulletin* 74

³⁹ V Hauch, SL Sporer, SW Michael, and CA Meissner, 'Does training improve the detection of deception? A meta-analysis' [2016] 43 *Communication Research* 283

⁴⁰ Geiselman (n 29)

T Sooniste, PA Granhag, LA Strömwall, and A Vrij, 'Statements about true and false intentions: using the Cognitive Interview to magnify the differences' [2015] 56 *Scandinavian Journal of Psychology* 371

reporting that is requested by the interviewer)⁴¹ have been shown to facilitate assessments of deception.

2. The Strategic Use of Evidence technique

Another effective approach for assessing deception, known as the Strategic Use of Evidence (SUE), involves effectively leveraging information or evidence that is collected before an interview is conducted. Simply put, if the interrogator possesses information or evidence that can be used to evaluate a subject's narrative, they should at first withhold this information from the subject while initially seeking a complete and detailed account from the subject. The foundation of this approach rests on the theory that guilty and innocent subjects have different counterinterrogation strategies⁴² leading them to behave differently when questioned. More specifically, innocent subjects are generally expected to be forthcoming, trying to offer as much information as possible and to cooperate with an investigator's questions.⁴³ Guilty subjects, in contrast, will seek to avoid the mention of incriminating evidence, if they are not presented with it, thus providing a shorter statement that contradicts the evidence. Once a complete and detailed account has been gathered from the subject, the SUE technique requires that the interviewer skillfully use funnel questioning—moving from general to more specific questions, and from less diagnostic to more probative forms of evidence—to inquire about said evidence and note

⁴¹ S Leal, A Vrij, L Warmelink, Z Vernham, and R Fisher 'You cannot hide your telephone lies: providing a model statement as an aid to detect deception in insurance telephone calls' [2015] 20 *Legal and Criminological Psychology* 129
A Vrij, S Leal, and RP Fisher, 'Verbal deception and the Model Statement as a lie detection tool' [2018] 9 *Frontiers in Psychiatry* 492

⁴² PA Granhag, and M Hartwig, 'A new theoretical perspective on deception detection: On the psychology of instrumental mind-reading' [2008] 14 *Psychology, Crime & Law* 189

⁴³ M Hartwig, PA Granhag, and L Strömwall, 'Guilty and innocent suspects' strategies during interrogations' [2007] 13 *Psychology, Crime & Law* 213

(in)consistencies between evidence and their prior narrative. Questioning a subject in this way has been shown to reliably lead liars to provide statements contradicting evidence, offering a more objective basis from which to infer deception (and possibly guilt).⁴⁴

C. Developing rapport and trust

Recent interviews and surveys of law enforcement professionals have demonstrated that interrogators value the development of rapport and see its critical role in mitigating resistance and developing a cooperative interrogation context.⁴⁵ Nevertheless, the use of tactics that promote confrontation and emotional provocation abound within law enforcement,⁴⁶ and there is a lack of understanding among professionals regarding what rapport actually is and how it is developed in the interrogative context.⁴⁷ Researchers have facilitated a more complex and measurable understanding of rapport in interrogative contexts,⁴⁸ and have begun to empirically link the development of rapport with cooperation and information gain in actual interrogations.⁴⁹

⁴⁴ M Hartwig, PA Granhag, and T Luke, 'Strategic use of evidence during investigative interviews: The state of the science' 1 In DC Raskin, CR Honts, and JC Kircher (eds) *Credibility assessment: Scientific research and applications* (Academic Press 2014)

⁴⁵ MB Russano, FM Narchet, SM Kleinman, and CA Meissner, 'Structured interviews of experienced HUMINT interrogators' [2014] 28 *Applied Cognitive Psychology* 847
JC Miller, AD Redlich, and CE Kelly, 'Accusatorial and information-gathering interview and interrogation methods: a multi-country comparison' [2018] *Psychology, Crime & Law Advance online publication*

⁴⁶ CE Kelly, JC Miller, and AD Redlich, 'The dynamic nature of interrogation' [2016] 40 *Law and Human Behavior* 295

⁴⁷ Russano (n 45)

⁴⁸ see A Abbe, and SE Brandon, 'The role of rapport in investigative interviewing: A review' [2013] 10 *Journal of Investigative Psychology and Offender Profiling* 237

A Abbe, and SE Brandon, 'Building and maintaining rapport in investigative interviews' [2014] 15 *Police Practice and Research* 207

JP Vallano, and N Schreiber Compo, 'Rapport-building with cooperative witnesses and criminal suspects: A theoretical and empirical review' [2015] 21 *Psychology, Public Policy, and Law* 85

⁴⁹ LJ Alison, EA Alison, G Noone, S Elntib, and P Christiansen, 'Why tough tactics fail and rapport gets results: Observing Rapport-Based Interpersonal Techniques (ORBIT) to generate useful information from terrorists' [2013] 19 *Psychology, Public Policy, and Law* 411

Similarly, trust has only recently been examined within the interrogative context as a distinct construct of importance for an information-gathering model. As detailed above, accusatorial approaches are not designed, nor are they carried out, with the intention of forming a balanced and respectful relationship with the subject. Indeed, rapport is not the goal when using accusatorial techniques, as this would require the interrogator to relinquish some, if not all, of their power in the situation and to share control with the subject—an approach that would run counter to the strategic framework long informed by customary knowledge. Discussing this novel research on trust and rapport is the focus of this chapter, and below we detail how each of these concepts has been defined, empirically assessed, and operationalized in the field.

III. Rapport Building in the Interrogative Context

Rapport is an interactive concept—more a verb than a noun—that depends on both parties’ attitudes, behaviors, and cognitions (which can vary over time). An interrogation is typically perceived as beginning without rapport, with the interrogator attempting to develop it at the outset and working to maintain it (and sometimes reclaim it when lost). A popular theoretical conception of rapport suggests that it is composed of three elements: *mutual attentiveness*, *coordination*, and *positivity*.⁵⁰ More specifically, when attempting to determine whether rapport has been established with a subject, the interrogator should ensure that both parties are focused on the same objectives and attuned to a common mindset or mental frame; that the interaction is well-coordinated, flowing comfortably, without awkwardness, and involving mutual linguistic

LJ Alison, EA Alison, G Noone, S Elntib, S Waring, and P Christiansen, ‘The efficacy of rapport-based techniques for minimizing counter-interrogation tactics among a field sample of terrorists’ [2014] 20 *Psychology, Public Policy, and Law* 421

⁵⁰ L Tickle-Degnen, and R Rosenthal, ‘The nature of rapport and its nonverbal correlates’ [1990] 1 *Psychological Inquiry* 285

and non-verbal behaviors; and finally that both parties generally have positive feelings or attitudes towards one another.

A. Conversational rapport

Rapport can be developed most simply via the questioning tactics that an interrogator uses. Demonstrations of respect and empathy, allowing the subject to have a voice in the interaction, offering minimal constraints in the questioning, and engaging in active listening are critical to developing conversational rapport. In fact, in a study of over 400 inmates designed to better understand a subject's reasoning when deciding to offer admissions or confessions, Cleary and Bull⁵¹ found that one of the most important factors was the opportunity to explain their perspective to the interrogator. Two broad, evidence-based frameworks that incorporate these elements have been examined and applied when seeking to develop conversational rapport in the interrogative context: Motivational Interviewing and OARS (Open-ended questions, Affirmations, Reflections, Summaries). Together, these frameworks have been shown to significantly increase perceived rapport between the interrogator and the subject, therein establishing a cooperative context within which information yield is increased.⁵²

1. Motivational Interviewing (MI)

The principles of MI, as applied to investigative interviewing, were drawn from the clinical psychology literature⁵³ yet have been identified as influential factors in successful intelligence interviews.⁵⁴ As a result, the MI framework has been specifically adapted to interrogative contexts to help mitigate resistance and increase information yield. Ensuring that

⁵¹ MD Cleary, and R Bull, 'Jail Inmates' Perspectives on Police Interrogation' [2018] Psychology, Crime & Law Advance online publication

⁵² Alison [2013] [2014] (n 49)

⁵³ WR Miller, and S Rollnick, *Motivational interviewing: Helping people change* (3rd ed Guilford Press 2013)

⁵⁴ Alison [2014] (n 49)

the five pillars of MI—autonomy, acceptance, adaptation, empathy, and evocation—are evidenced in the subject-interrogator interaction has been shown to provide a solid foundation for developing and sustaining rapport throughout the interview.

Autonomy is, quite simply, the antithesis of an accusatorial strategy. When using the accusatorial approach, subjects' decisions are already made for them: They are guilty and must confess. In an information-gathering interrogation, an interrogator should do his or her best to encourage and support a subject's sense of choice about sharing information (or not). Moreover, autonomy presents the subject with a largely unbounded opportunity to provide their narrative in the order, scope, and detail they prefer, which can enhance their memory.⁵⁵ Allowing the subject to offer their narrative without limits also provides the interrogator with a far better sense of the depth and breadth of the subject's knowledge.

To establish *acceptance* is to display unconditional positive regard toward the subject. However, this must be engaged in carefully: The interrogator should display unconditional positive regard for who the subject is and what their experiences have been, but stop short of condoning any criminal activity. For the interrogator, acceptance means to listen to the subject's narrative in full and without judgment or condescension. It should not, however, be conflated with agreement (e.g., with the subject's motivation or veracity). At all times, an interrogator should avoid offering a moral justification for the crime, which could be considered minimization and imply leniency.

Adaptation is the key to “operationalizing” autonomy and acceptance and involves the interrogator managing a fluid interrogation and adjusting to the subject's responses. Again, this

⁵⁵ RE Geiselman, RP Fisher, I Firstenberg, LA Hutton, S Sullivan, I Avetissian, and A Prosk, 'Enhancement of eyewitness memory: An empirical evaluation of the cognitive interview' [1984] 12 *Journal of Police Science and Administration* 74

entails being willing to share the power in an interrogation while subtly guiding (or “nudging”) the subject toward specific topics. When encountering resistance, adaptation requires “rolling with it,” if necessary—which involves not confronting resistance immediately, but instead gathering more information (including the use of evocation, as described below) and awaiting the most appropriate moment to address it.

Empathy involves expressing a willingness to understand the subject’s perspective and feelings, and a genuine attempt to do so.⁵⁶ It is important to note that this, again, can run the risk of being mistaken for minimization. The interrogator should be supportive of how difficult the subject’s situation must be, but stop short of offering or agreeing to a justification for the crime they may have committed.

Finally, while questioning the subject, the interrogator should also try to draw-out the subject’s beliefs and views before displaying empathy—a process referred to as *evocation*. Again diverging from an accusatorial approach, the interrogator should be interested in what the subject has to say in a manner that does not presume guilt or negative intent. While customary knowledge appears to assume that a subject would be unwilling to share information relating to insights and perspectives, thus leaving the interrogator to speculate and often be wrong, the findings of Alison and his colleagues suggest otherwise.⁵⁷

2. OARS framework

⁵⁶ CJ Dando, and GE Oxburgh, ‘Empathy in the field: Towards a taxonomy of empathic communication in information gathering interviews with suspected sex offenders’ [2016] 8 *The European Journal of Psychology Applied to Legal Context* 27

G Oxburgh, J Ost, P Morris, and J Cherryman, ‘The impact of question type and empathy on police interviews with suspects of homicide, filicide and child sexual abuse’ [2014] 21 *Psychiatry, Psychology and Law* 903

⁵⁷ Alison [2014] (n 49)

In addition to the five pillars of MI, the skilled employment of the OARS framework, involving Open-Ended questions, Affirmations, Reflections, and Summaries,⁵⁸ can also substantially increase an interrogator's ability to establish rapport, build trust, elicit information, and better understand a subject's motivations through questioning. The OARS framework allows an interrogator to meaningfully demonstrate that they are willing to listen to and learn from the subject's perspective, putting themselves in a continued position to convey their interest in the subject's needs and goals, and maintain a potentially positive relationship. When compared to an accusatorial framework in which the preponderance of the communication originates with the interrogator in the form of direct and leading or suggestive questions, the OARS framework (in contrast) provides a platform for the subject to speak openly and completely, thereby offering the interrogator a unique opportunity to draw-out valuable information. The framework involves four specific questioning tactics that facilitate active listening and effective elicitation.

The inherent value of *open-ended questions* arises from the fact that they cannot be answered with a brief response or a simple "yes/no". To be sure, direct questions have an important role to play when designed appropriately and timed strategically. However, the practiced use of open-ended questions helps move the conversation forward, often into unexpected yet vitally important areas. With open-ended questions, subjects are likely to provide longer and richer responses.⁵⁹ Such responses afford the investigator greater opportunity to assess not only case-relevant information, but also aspects of the subject's capability, opportunity, and potential motive.

⁵⁸ Miller (n 53)

⁵⁹ RP Fisher, and RE Geiselman, *Memory-enhancing techniques for investigative interviewing: The Cognitive Interview* (Charles C. Thomas 1992)

Affirmations are declarations that highlight the subject's constructive statements, attributes, or experiences. Affirmations are valuable in building rapport and in supporting a subject's ability to respond positively to the circumstances. This is true, however, only to the extent that affirmations are authentic, appropriate to the situation, and accurate in the eyes of the subject. To affirm is not to flatter; rather, it is to acknowledge that which the subject understands to be true while finding a positive aspect to it. Note that this is not providing a rationale for a subject's behavior.

Subject: "I got so mad. I was just trying to protect my baby boy, but she kept grabbing at him, drunk as she was. That's when I hit her."

Interrogator: "So your intentions were to protect the child even though it might not have turn out as you'd hoped."

Affirmations also increase the likelihood of getting more of what has been affirmed (e.g., "I appreciate your honesty" may result in more honesty or "That was a really detailed account" could result in even more detailed answers). Affirmations can also be employed to reframe specific behaviors or choices to emphasize the potential positive elements (e.g., "I can see that you try to do the right thing regardless of the personal costs").

Reflections perform two principal functions. First, they are a powerful vehicle for expressing empathy to a subject. This results from the fact that thoughtful reflective listening is the most direct and unambiguous way for interrogators to communicate that they understand and/or recognize the subject's perspective. At the same time, the skillful use of reflections is much like a mirror held before the subject. This can bring to the surface discrepancies without judgment or confrontation. Reflections can further serve the purpose of propelling the conversation; in fact, it is recommended that investigators aim to offer two reflections per one

open-ended question. Simple reflections can involve repeating back to the subject certain words or phrases.

Subject: “That’s when she gave him the Snapple, the one we poisoned. I was scared out of my mind, man.”

Interrogator: “You were scared?”

A more complex form of reflection involves interpretations of the subject’s statements, emotions, or experiences.

Subject: “It was the longest, hardest day ever.”

Interrogator: “It sounds exhausting.”

Finally, *summaries* involve offering back a concise, yet detailed, encapsulation of what the subject has said and can lead to an array of positive outcomes. First, summaries can build rapport by letting the subject know that the interrogator has been listening carefully throughout the account. Second, summaries can offer the subject the opportunity to correct or revise something that was said. Third, they can create a strategic inflection point wherein the interrogation can subtly, yet appropriately, shift the focus of the conversation (referred to in the MI literature as a “transitional summary”) by concluding with an open-ended question to explore a completely new area or to focus in more detail on one element of the account. Fourth, summaries can lend themselves to the constructive, non-confrontational development of apparent discrepancies.

B. Rapport-building tactics

Several additional tactics can be successfully integrated within the MI and OARS frameworks to develop rapport. For example, Goodman-Delahunty, Martschuk, and Dhami⁶⁰ found that social interview strategies (e.g., being respectful and considerate of the subject, using reciprocity, being friendly) were related to greater information disclosure in high-value interrogations. Further, research by Wachi and her colleagues⁶¹ found that interrogators who approached a subject with empathy and in a friendly manner while also disclosing personal information and establishing commonalities were more successful in securing true confessions than a control interview. We discuss these techniques—increasing feelings of liking through self-disclosure and learning about the subject’s interests to find commonalities—and add to them by exploring the use of affirmations (in response to self-disclosure) and verifications. In general, such tactics have been shown to increase rapport through the interrogator’s positive and accurate understanding of the subject’s self-concept.

1. Self-disclosure

Revealing personal information can benefit a relationship in three fundamental ways that are remarkably interwoven and have been consistently supported.⁶² First, self-disclosure increases affinity (liking) toward the person providing the disclosures. Second, people are more likely to offer disclosures to people they view as likable. Third, the act of disclosure increases the perceived likability of the person to whom the disclosures are made. Disclosure generates all of these positive effects on a relationship because it reduces uncertainty about the person we are

⁶⁰ J Goodman-Delahunty, N Martschuk, and MK Dhami, ‘Interviewing high value detainees: Securing cooperation and disclosures’ [2014] 28 *Applied Cognitive Psychology* 883

⁶¹ T Wachi, H Kuraishi, K Watanabe, Y Otsuka, K Yokota, and ME Lamb, ‘Effects of rapport building on confessions in an experimental paradigm’ [2018] 24 *Psychology, Public Policy, and Law* 36

⁶² NL Collins, and LC Miller, ‘Self-disclosure and liking: A meta-analytic review’ [1994] 116 *Psychological Bulletin*, 457

interacting with,⁶³ while at the same time displaying a level of vulnerability by the discloser, which allows the relationship to grow in intimacy.⁶⁴

In an interrogation, such disclosure of personal information can be strategically leveraged to enhance rapport in the interaction. For example, an interrogator could self-disclose (e.g., about a situation similar to one described by the subject) or elicit a self-disclosure from the subject (e.g., about something they care about, their family, etc.). Both of these efforts tend to result in a more positive interaction.⁶⁵ Additionally, spontaneous self-disclosure on the part of the subject can be a useful metric for assessing whether rapport has been successfully established.⁶⁶ In such instances, care should be taken in how and when to respond most appropriately (see our discussion of affirmations / verifications below). Importantly, the level of disclosure should be incremental and mirrored—that is, one should only disclose limited bits of personal information at a time, and the interrogator’s level of disclosure should closely reflect the subject’s level of disclosure.⁶⁷

2. Establishing commonalities

⁶³ S Sprecher, S Treger, and JD Wondra, ‘Effects of self-disclosure role on liking, closeness, and other impressions in get-acquainted interactions’ [2013] 30 *Journal of Social and Personal Relationships* 497

⁶⁴ S Sprecher, D Felmlee, S Metts, and W Cupach, ‘Relationship initiation and Development’ [2015] In M Mikulincer, PR Shaver, JA Simpson, and JF Dovidio (eds) *American Psychological Association Handbook of Personality and Social Psychology, Volume 3: Interpersonal relations* 211

⁶⁵ RE Dianiska, L Brimbal, JK Swanner, and CA Meissner, ‘Rapport building with reluctant sources: Addressing identity concerns through disclosure and feedback to increase information yield’ [2018] Manuscript in preparation

⁶⁶ K Greene, VJ Derlega, and A Mathews, ‘Self-disclosure in personal relationships’ [2006] *The Cambridge Handbook of Personal Relationships* 409
J Omarzu, ‘A disclosure decision model: Determining how and when individuals will self-disclose’ [2000] 4 *Personality and Social Psychology Review* 174

⁶⁷ JK Swanner, RE Dianiska, and CA Meissner, ‘Escalating self-disclosure to increase cooperation and information elicitation’ (High value detainee Interrogation Group (HIG) Symposium, Washington, DC, October 2017)

Broadly speaking, we appreciate people who are similar to us and, correspondingly, show less appreciation for those who are dissimilar.⁶⁸ The groups and social circles with which a person associates offer an insightful reflection of who they are.⁶⁹ This is highlighted by the fact that groups and social circles are commonly composed of like-minded people who share a number of similarities. This can be problematic in an interrogation, however, as the interrogator and subject—whether a suspect, victim, or witness—often present clear differences (e.g., given their roles in the interrogation, culture, values, socio-economic status, etc.). Nonetheless, through disclosure, cross-cutting identities (e.g., shared roles such as having the experience of being a parent) can be established and similarities uncovered. Preparation will increase the probability that similarities can be authentically introduced as the knowledge the interrogator acquires about the subject prior to an engagement can facilitate the seeming inconspicuous disclosure of relevant personal information that can heighten affinity. If no prior information is available, the interrogator can prompt a subject to self-disclose about their personal life through, for example, open-ended questioning and evocation, then listen carefully for relatable details that can be highlighted.

While a strategy designed to distance an individual (e.g., a subject or witness) from an affiliated individual may appear to be a logical next step from highlighting similarities on the surface, this approach can actually prove to be counterproductive. Attempting to separate the subject from another affiliated individual is more likely to increase the subject's resistance to, or

⁶⁸ D Capozza and R Brown (eds.), *Social identity processes: Trends in theory and research* (Sage 2000)

B Pinter AG Greenwald, 'A comparison of minimal group induction procedures' [2011] 14 *Group Processes & Intergroup Relations* 81

⁶⁹ e.g., N Ellemers and SA Haslam 'Social identity theory' [2011] 2 *Handbook of Theories of Social Psychology* 379

alienation from, the interrogator.⁷⁰ A more reliable approach centers around fostering the relationship between the interrogator and the subject through the development of their commonalities.

3. Affirmation and verification

When a subject has self-disclosed, an interrogator can increase rapport by positively affecting the discloser's identity through affirmation or verification responses. These tactics were developed from different theories of social identity that explain how we view ourselves and how, in turn, we like to be viewed. Affirmations come from self-enhancement theories,⁷¹ which posit that we respond positively to those who express positive things about our identity, particularly those that boost our self-esteem. The role of these types of responses are to shine a positive light on the subject's self-esteem, providing the source with positive regard that engenders positive feelings about themselves and, by proxy, the interrogator. An example of an affirmation would involve responding to a subject who mentioned visiting his/her mom every Monday by saying, "I can see that you are a very caring person, since you take such good care of your mother."

In contrast, self-verification theory⁷² posits that we like to be viewed by others in the way we view ourselves. For verification, consistency with the self-concept is more important than positivity and, indeed, verifications need not always be positive. However, to be most effective, they should concern a dimension of the subject's self-concept for which they (the subject) have

⁷⁰ L Brimbal, RE Dianiska, JK Swanner, and CA Meissner, 'Approach or avoid? Enhancing cooperation and disclosure by manipulating affiliation in investigative interviews' [2018] *Revise and resubmit at Psychology, Public Policy, and Law*

⁷¹ MR Leary 'Motivational and emotional aspects of the self' [2007] *58 Annual Review of Psychology* 317

⁷² WB Swann Jr. 'Self-verification theory' [2011] *2 Handbook of Theories of Social Psychology*

high confidence.⁷³ By verifying the subject's self-disclosure through reflections, the interrogator conveys a genuine and accurate understanding of who the subject is. In this way, verification can capture either a positive or negative attribute, as long as it is consistent with how the subject views themselves. For example, someone who views themselves as an introvert, and believes this is a negative quality, can be verified as such, leading to enhanced rapport with the interviewer.

IV. Building Trust in the Interrogative Context

Recently, researchers have also focused on the role of trust-building as a component of a rapport-based interrogation. Much like rapport, explaining trust in a manner that meaningfully informs behavior during an interrogation has proven to be quite a challenge, both in terms of defining and conceptualizing the concept. One of the most useful conceptualizations of trust was offered in a cross-disciplinary review by Rousseau and colleagues,⁷⁴ in which trust was defined as *a psychological state comprising the intentions to accept vulnerability based on positive expectations of the actions of the trustee*. It has since been largely agreed that the two primary components of trust involve (i) the intention to accept *vulnerability* and (ii) the maintenance of *positive expectations* with respect to the outcome.⁷⁵ In the interrogative context, vulnerability must be viewed as more than taking a risk; rather, it can involve a willingness to assume risk, for example, by making oneself vulnerable to losing something of importance. Scholars' efforts to

⁷³ WB Swann Jr. 'Self-verification: Bringing social reality into harmony with the self' [1983] 2 In J Suls and AG Greenwald (eds) *Psychological perspectives on the self* 33 (Erlbaum)

WB Swann Jr. and RJ Ely 'A battle of wills: Self-verification versus behavioral confirmation' [1984] 46 *Journal of Personality and Social Psychology* 1287

⁷⁴ DM Rousseau, SB Sitkin, RS Burt, and C Camerer, 'Not so different after all: A cross-discipline view of trust' [1998] 23 *Academy of Management Review* 393

⁷⁵ JA Colquitt, BA Scott, and JA LePine, 'Trust, Trustworthiness, and trust propensity: A meta-analytic test of their unique relationship with risk taking and job performance' [2007] 92 *Journal of Applied Psychology* 909

clarify the concept of trust have also helped to distinguish it from related concepts.⁷⁶ For example, trustworthiness involves offering the impression that you are a dependable person, but to trust is the conscious intention to rely on another person.

The ultimate function of trust is to reduce the perceived uncertainty about how events will unfold. Thus, trust is highly important in situations such as interrogations, where the outcome of an interaction depends on the actions of the persons involved.⁷⁷ Although a complete state of trust is something that develops through continued interactions over long periods of time,⁷⁸ research shows that a perception of trustworthiness can be established rather quickly.⁷⁹ These more immediate impressions of trust are of direct interest to the interrogative context, since early assessments of the interrogator can influence a subject's behavior, thereby affecting the interrogation outcome. To establish such early trust perceptions, people collect and process information about their partners before taking any action. They then choose who to trust and when they can be trusted based on the information collected that is characterized as solid, rational reasons (i.e., cognitive trust) and reasons stemming from their feelings about the person (i.e., affective trust).

A. A strategic framework for developing trust

1. Cognitive trust

⁷⁶ RC Mayer, JH Davis, and FD Schoorman, 'An integrative model of organizational trust' [1995] 20 *Academy of Management Review* 709
Colquitt (n 75)

⁷⁷ D Balliet and PA Van Lange 'Trust, conflict, and cooperation: A meta-analysis' [2013] 139 *Psychological Bulletin* 1090

⁷⁸ RJ Lewicki, EC Tomlinson, and N Gillespie, 'Models of interpersonal trust development: Theoretical approaches, empirical evidence, and future directions' [2006] 32 *Journal of Management* 991

⁷⁹ RB Lount Jr 'The impact of positive mood on trust in interpersonal and intergroup interactions' [2010] 98 *Journal of Personality and Social Psychology* 420

To provide “solid reasons” to be trusted, the interrogator would need to appear to be reliable and dependable from the perspective of the subject.⁸⁰ This psychological process of gaining trust serves to reduce uncertainty by considering if it is reasonable, on a calculated and rational level, to assume vulnerability.⁸¹ Cognitive trust has been linked with the characteristics of ability and integrity.⁸² According to Mayer and colleagues, *ability* involves a set of skills, competencies, and characteristics that can facilitate influence within some specific domain. This “ability characteristic” is domain specific as an individual may be skilled in, for example, a technical area, affording some trust on tasks related to that domain, but may not be trusted in other, unrelated areas. Integrity is the perception that an individual adheres to a set of principles that are supported by and acceptable to the trustor. However, if that set of principles is not deemed acceptable to the trustor, then the individual would not be considered to have integrity for what are viewed as the right reasons, and may thus not be trusted.⁸³

To offer cognitive reasons to be trusted, and reduce calculative risk perceptions, an interrogator would need to present themselves as having the ability to do what is expected of them (i.e., that they *can do* the task) in combination with having the integrity to follow through with it (i.e., that the interrogator *will do* the task). This cognitive trust process is influenced by perceptions that a trusted partner is skilled at their job and that other individuals are treated in a fair manner with both patience and respect.

2. *Affective trust*

⁸⁰ RJ Lewicki and BB Bunker ‘Trust in relationships’ [1995] 5 Administrative Science Quarterly 583

⁸¹ JD Lewis and A Weigert ‘Trust as a social reality’ [1985] 63 Social Forces 967

⁸² Mayer (n 76)

⁸³ Mayer (n 76)

With respect to feelings of trust, people look for an emotional component of trust that might be considered more special and unique than any rational judgment. This emotional component of trust is not only efficient at reducing the complexity of making decisions, it is also considered so powerful that it can shield against logic-based challenges to its cognitive basis. In fact, it has been argued that such emotions can be so powerful that they stretch beyond what can be justified by available knowledge.⁸⁴ This psychological process is labeled *affective trust* and serves to reduce uncertainty by relying more on feelings or emotions.

Affective trust has been linked with the characteristic of benevolence, which Mayer and colleagues⁸⁵ describe as the perception that an individual wants to help—even though they are not required to do so, and particularly when there is no extrinsic reward for helping. Benevolence thus suggests there is a specific attachment or positive orientation toward the trustor. Interestingly, research indicates that affective trust can be more of a challenge to develop and is potentially more powerful than cognitive trust. In fact, affective trust has been considered so influential that certain conditions of reliability and dependability must have been met prior to the affective commitment.⁸⁶ Paradoxically, however, once affective trust has been established there may no longer be any need for a cognitive foundation.⁸⁷

To offer affective reasons to be trusted, and provide the emotional support required to reduce risk perceptions, an interrogator would need to convey that their motivation is benevolent (i.e., that they truly *want to do* what is expected of them). This affective trust process is

⁸⁴ DJ McAllister ‘Affect- and cognition-based trust as foundations for interpersonal cooperation in organizations’ [1995] 38 *Academy of Management Journal* 24

⁸⁵ *ibid*

⁸⁶ *ibid*

⁸⁷ *ibid*

influenced by maintaining a positive orientation towards the subject via displays of empathy, interest, and concern for the subject's well-being.

B. A tactical approach to building trust

To increase the likelihood that a trust-building attempt will appeal to a subject's perceptions, and ultimately work to mitigate resistance, Oleszkiewicz and colleagues⁸⁸ have synthesized psychological theory on trust into a strategic framework. Central to this conceptual framework, and the key principle for exchanging trust intentions, is *reciprocity*. The reciprocity principle was further refined by characterizing it as shaped by four elements that have been shown to influence the perceived quality of the trust-building behavior: empathy, genuineness, risk, and independence. Each of these components of the trust-building framework are detailed below.

1. Reciprocity

Generally speaking, reciprocity refers to social exchanges of objects, items, and gestures. In contrast to economic exchanges, which are based on contracts and specified quantities, social exchanges involve diffuse, future obligations that are vaguely specified and occur over a more open-ended timeframe (e.g., you occasionally buy dinner for a friend, and sometime in the future your friend offers to lend you their vacation home). As such, social relationships utilize trust, rather than self-serving interests, as the facilitator of exchange.⁸⁹ Reciprocity is a common tactic

⁸⁸ S Oleszkiewicz, D Atkinson, CA Meissner, and SM Kleinman, 'Trust-building strategies: Facilitating cooperation in the interrogative context' [2018] Manuscript in preparation

⁸⁹ J Berg, J Dickhaut, and K McCabe, 'Trust, reciprocity, and social history' [1995] 10 Games and Economic Behavior 122

used by interrogation professionals⁹⁰ and has been repeatedly shown to increase information yield in investigative interviews.⁹¹

2. Empathy

Empathy refers to the ability to consider a situation from another individual's perspective and, through that process, to communicate a situational understanding⁹² by, for example, voicing concern for the subject's situation.⁹³ This can facilitate an emotional connection with the subject by signaling that the interrogator's underlying intentions are based upon benevolence. Our research on this trust-building framework has shown that perception of an empathetic interrogator consistently increases trust perceptions. That is, when the interrogator is perceived as displaying concern for the subject's situation, both cognitive trust and affective trust are developed.⁹⁴ This suggests that empathy can bolster the salience of underlying intentions on both a rational and emotional level, and that empathy is an important element of trust.

3. Genuineness

Similar to empathy, genuineness is also an important component linked to perspective-taking; however, instead of voicing empathic concern, genuineness involves actions that demonstrate empathy. The rationale is that if the interrogator recognizes a subject's need in a

⁹⁰ LM Howes and J Goodman-Delahunty, 'Life course research design: Exploring career change experiences of former school teachers and police officers' [2014] 41 *Journal of Career Development* 62

⁹¹ e.g., D Matsumoto and HC Hwang, 'Social influence in investigative interviews: The effects of reciprocity' [2018] 32 *Applied Cognitive Psychology* 163

⁹² AD Galinsky, WW Maddux, D Gilin, and JB White, 'Why it pays to get inside the head of your opponent: The differential effects of perspective taking and empathy in negotiations' [2008] 19 *Psychological Science* 378

⁹³ CJ Dando and GE Oxburgh, 'Empathy in the field: Towards a taxonomy of empathic communication in information gathering interviews with suspected sex offenders' [2016] 8 *The European Journal of Psychology Applied to Legal Context* 27

⁹⁴ S Oleszkiewicz, D Atkinson, CA Meissner, and SM Kleinman, 'Trust-building strategies: Some critical factors for establishing cooperation in the interrogative context' [2018] Manuscript in preparation

given situation and also attends to that need, the interrogator's behavior is likely to be perceived as genuine and sincere. Research on the trust-building framework has shown that perceptions of genuineness consistently increase cognitive trust perceptions.⁹⁵ This suggests that adopting authentic behavior, by being attentive to the situation in a natural and reactive manner, is important for overcoming rational trust issues. If the interrogator is perceived as insincere or inauthentic by being overly prepared or scripted, trust perceptions are less likely to be established.

4. Risk

The element of risk—to commit to an act for which the outcome is uncertain—is a principle that clarifies the consequences of fulfilling a gesture.⁹⁶ Accordingly, it may be critical that the subject, to some extent, recognizes the risk associated with a trust-building attempt. Otherwise the subject may overlook the significance of the trust intention, which can reduce its reciprocal potential. Research on the trust-building framework has shown that the perception that an interrogator would assume accountability for the subject's behavior increases affective trust perceptions. Counter to expectations, however, risk can also have a negative impact on cognitive trust perceptions, particularly when the act is viewed as unethical or disproportionate to the situation.⁹⁷

5. Independence

Trust-building attempts should be performed through subtle behaviors that are independent of gain on the part of the individual. That is, trust-building tactics should work in parallel with, yet be independent of, the effort to elicit information. This might sound

⁹⁵ *ibid*

⁹⁶ A Falk and U Fischbacher 'A theory of reciprocity' [2006] 54 *Games and Economic Behavior* 293

⁹⁷ Oleszkiewicz (n 94)

counterintuitive; however, trust-building serves as a means to influence a mindset (conceptualized as an exchange of intentions) rather than as a direct means to an exchange of “goods” (e.g., leveraged to increase information yield). As an example, for the reciprocity principle to successfully leverage trust, gestures need to be at a social level (e.g., taking the time to listen in order to later be listened to) rather than a *quid pro quo* arrangement (e.g., offering a beverage or food in exchange for information). Research on the trust-building framework has shown that a perceived lack of independence (i.e., the perception that the interrogator expects something in return for his/her gestures) can have a negative effect on cognitive trust perceptions and is unrelated to perceptions of affective trust.⁹⁸ This suggests that demanding something in return for a trust-building attempt could undermine calculated reasons to trust.

C. Trust-building tactics

To build trust in a systematic fashion, and therein facilitate cooperation and information yield during interrogations, our current research suggests that interrogators can implement two distinct trust-building tactics that can be adapted to individual cases. These two tactics are designed to engage the reciprocity principle as well as the four trust-building elements.

1. Demonstrating trustworthiness

One tactic for engaging the reciprocity principle in building trust is to demonstrate trustworthiness wherein the interrogator engages in an overt act that provides affirming evidence that an obligation will be reliably fulfilled. This tactic can be exemplified as following through on a promise and thereby signaling to the subject that “you can trust me.” In essence, this gesture involves behavior that verifies the interrogator’s intention by fulfilling the promise, rather than merely voicing intentions. Demonstrations of trustworthiness are likely to be reciprocated with

⁹⁸ *ibid*

similar trusting behavior. For example, a friend is only likely to maintain your secret to the extent that you have demonstrated that you will keep their secret.

2. Demonstrating a willingness to trust

A second tactic for engaging the reciprocity principle is to demonstrate a willingness to trust, such that the interrogator would place his/her confidence in the subject's judgment and actions by overtly accepting the risk that the subject will fulfill their obligation. An interrogator who can verify their own intention to allow such a freedom and acceptance of risk under their responsibility can signal to the subject that "I trust you." Demonstrations of a willingness to trust are likely to be reciprocated with similar trusting behavior. For example, to be trusted with intimate details one may first need to confide intimate details about themselves, signaling a willingness to trust and accept vulnerability with the subject.

V. Application of Rapport and Trust Strategies in the Operational Context

While rapport in the interrogative context has been extensively studied by behavioral science researchers and has been a common theme among investigative and intelligence interviewers, its role and influence in the interrogative context continues to be debated. In the course of research-to-practice and field validation studies, the authors have encountered a surprisingly broad diversity of opinion as to what rapport actually means.⁹⁹ Nevertheless, an evidence-based perspective is emerging, as described above, regarding the strategies and tactics that facilitate rapport development in the interrogative context.

In contrast, developing trust in the interrogative context has only recently been the subject of study by scholars, and is a topic less commonly referenced by practitioners (although it has been a recurring theme found in the case studies of accomplished interrogators dating back

⁹⁹ see Russano (n 45)

to World War II). One of the fundamental premises of this chapter is that, from an operational perspective, the key question should not be rapport *or* trust, but rather how can the synergy of rapport *and* trust be most effectively implemented in the effort elicit reliable information from subjects. Such a perspective finds much in common with the concept of *operational accord*, defined as “a relationship orchestrated by an interrogator with a source that is marked by a degree of conformity and/or affinity and is based on a sense of understanding of, and perhaps even guarded appreciation for, respective concerns, intentions, and desired outcomes.”¹⁰⁰ Not surprisingly, central to operational accord are the principles, strategies, and tactics of rapport and trust as described in the preceding sections of this chapter. Empirical research and field studies have demonstrated that both trust and rapport are clearly determinant of the key outcomes of cooperation and disclosure. Moreover, both trust and rapport have been identified as central threads that run throughout the case studies of successful interrogators examined by the authors. We offer several examples below.

A. Otis Cary – Lieutenant, U.S. Navy

During World War II, Navy Lieutenant Otis Cary employed a strategy for connecting with highly resistant Japanese prisoners-of-war (POWs) that combined a culturally appropriate effort to both establish rapport and to build trust. Cary was acutely aware that the Japanese warrior ethos of *Bushido* forbid Japanese soldiers from allowing themselves to be captured, and that prisoners could face charges of treason upon their return home. Using his near-native fluency in the Japanese language and his intimate familiarity with the complex Japanese social structure, Cary was able to communicate at an intimate level with the POWs and to establish

¹⁰⁰ SM Kleinman, ‘Barriers to success: Crucial challenges in developing a new educating information paradigm’ [2006] In R Fein (ed) *Educating information interrogation: Science and art* (National Defense Intelligence College Press) 244

common ground. This enabled Cary to convey a message that resonated deeply: the Japanese soldiers had made incredible sacrifices for their country, they should feel no shame whatsoever about their service in battle, and they should begin looking forward to the important role each could play in rebuilding Japan upon the conclusion of hostilities.¹⁰¹

Cary further shared his personal view of a Japan that would emerge resiliently from the ashes of the war (a vision not shared by many in the U.S. military at that point). This disclosure helped to elicit a disclosure from a prisoner that he and his colleagues would cooperate (by disclosing vital information and generating ideas for psychological campaigns), but only because it served their interests as well.¹⁰² Cary was also able to build rapport by leveraging the commonalities that naturally accrued from his extensive time living in Japan. In addition, rapport was a product of his consistent treatment of the Japanese POWs in a “decent, humane manner...not as enemies, but as human beings.”¹⁰³

With a keen understanding of the unique context of interrogating members of the Japanese military (who, as noted above, were followers of the Bushido code), Cary was able to establish trust in an unconventional manner: by protecting the identities and status of his POWs. Most of the Japanese soldiers feared their confinement as prisoners would become known by officials back in Japan and thereby bring dishonor to their families. Cary offered affirming evidence of his trustworthiness by doing everything possible within the laws of armed conflict to

¹⁰¹ U Straus, *The anguish of surrender: Japanese POWs of World War II* (University of Washington Press 2003)

¹⁰² *ibid*

¹⁰³ JA Wahlquist, Stone, DP Shoemaker, NR Dotti, and WC Spracher, *Interrogation: World War II, Vietnam, and Iraq* (National Defense Intelligence College 2008, p. 63)

protect them. At the same time, he deepened the rapport that existed by verifying the POWs' perception of themselves as warriors despite their present status as prisoners.¹⁰⁴

B. Orrin DeForest – U.S. Air Force and Central Intelligence Agency

During the Vietnam War, CIA-contract interrogator, Orrin DeForest, emphasized the role of rapport and trust as central to successful interrogation strategies. He had learned the importance of such strategies while working closely with the Japanese security services while a special agent with the U.S. Air Force Office of Special Investigations. He would later “operationalize” those lessons during his work with difficult Viet Cong prisoners in Vietnam. In his detailed and insightful personal memoir, *Slow Burn: The Rise and Bitter Fall of American Intelligence in Vietnam*, DeForest offers the following observation:

“Rapport was the object, and a major road to that object was being honest... You have to be in the frame of mind where you’re saying to yourself, ‘I want to talk to this fella. I want to understand why he was a guerilla. He’s got a story to tell and I want to hear it.’ That’s the way to get them thinking, ‘I don’t mind talking to this guy, to tell him why I was a guerilla. I’m not ashamed of it; I’m proud of it.’” And then they hear you say, “Sure, in your pants I would have been a guerilla, too. Against those bandits in Saigon? Of course I would have.”¹⁰⁵

In one of the most unconventional, yet demonstrably effective, strategies for working with high-value Viet Cong subjects (many of who remained stalwartly uncooperative from the moment of capture), DeForest arranged for detainees to actually live with their interrogator, taking part in daily activities and sleeping under the same roof (often without a guard present).

¹⁰⁴ *ibid*

¹⁰⁵ O DeForest and D Chanoff, *Slow burn: The rise and bitter fall of American intelligence in Vietnam* (Simon & Schuster 1990, p. 87)

This arrangement demonstrated the interrogator's trust that the detainee would not escape nor take advantage of the circumstances to harm the interrogator, and involved a clear acceptance of risk on the part of the interrogator.¹⁰⁶

DeForest emphasized the importance of rapport as a means to eliciting critical disclosures, and in several cases, including an important courier who possessed information of exceptional intelligence value, this meant recognizing two undeniable realities: 1) it takes time and patience to gain a meaningful understanding of a subject, and 2) sometimes gaining rapport begins with creating the circumstances to mitigate fear.¹⁰⁷ The first principle relates directly to the concept of rapport-building (preparation, authenticity, and finding similarities) while the second relates to the concept of trust. In this instance, the trust-building effort focused both on cognitive trust (where the detainee needed to accept the risk that the interrogator has the ability and integrity to keep their promises of humane treatment and respect the confidential nature of the relationship) and affective trust (where liking and benevolence played a pivotal role). An examination of the interrogation program designed and managed by Orrin DeForest provides compelling evidence of the essential synergy between rapport and trust.

C. Hanns Scharf – German Luftwaffe

Hanns Scharff, a Luftwaffe (German Air Force) interrogator operating during World War II, has reached an iconic status within the U.S. military interrogator community. Beyond his uncommon affability (given the circumstances) and command of the English language—both of which were indispensable in eliciting engagement from the U.S. POWs he interrogated—Scharff demonstrated exceptional perspective taking. As one observer described it, Scharff appeared to

¹⁰⁶ Wahlquist (n 104)

¹⁰⁷ DeForest (n 106)

have the “ability to discern the thoughts, feelings, and motivations of others...he seemed to be able to enter and understand the minds of those he interrogated.”¹⁰⁸

As described above, careful preparation can increase the likelihood that similarities can be uncovered and employed (e.g., via purposeful self-disclosures) as an effective rapport-building tactic. For this, Scharff relied heavily on the meticulous research efforts of *Beute und Nachrichten*, the unit responsible for document and materiel exploitation. The products of this research included stories about the POWs published in hometown newspapers, photographs from various sources, awards announced by the U.S. War Department, and information about various military units to which the POW had been assigned (much of which had been elicited from previous POWs). In addition to supporting the illusion that Scharff already knew most everything about the prisoner he engaged with, this also offered numerous topics of conversation through which Scharff could highlight commonalities that existed between he and the subject.¹⁰⁹

Scharff purposely leveraged his intellect and social status in a manner that matched those of his primary sources. Such commonalities were, according to Scharff’s written record, of vital importance, otherwise the interrogator would be unlikely to effectively establish rapport¹¹⁰. Well ahead of behavioral science research in embodied cognition and environmental psychology, Scharff also sought to build commonalities with his POWs by carefully furnishing his office with American magazines, American cigarettes, and other items that would remind them of home (and, less discernibly, Scharff’s familiarity with Americans and American culture). What informed Scharff’s thinking was his belief that facilitating a feeling of being at home would have

¹⁰⁸ R Kristoffersen ‘Learning from history: What is successful interrogation?’ [2012] 2 CTX: Combating Terrorism Exchange 29, p. 31

¹⁰⁹ *ibid*

¹¹⁰ Wahlquist (n 104)

the effect of reducing the POWs' acute awareness of being held prisoner and, as a result, also reduce their suspicions and discipline to resist.¹¹¹

Trust-building was also a central theme of Scharff's overarching approach to interrogation. Rather than remaining within the safe and secure context of the Luftwaffe Intelligence and Evaluation Center at Auswertestelle West (where American aircrew members were interrogated), Scharff frequently offered his POWs a range of uncommon privileges that reflected his considerable and wholly unexpected willingness to trust that they would not attempt an escape or to assault him. Specifically, Scharff would take prisoners to the officer's club, on walks through the surrounding countryside, and even to meet and dine with German military pilots. In one notable instance, Scharff made it possible for an American POW to fly a Messerschmitt Bf 109, the premier single-seat fighter aircraft in the German Air Force inventory,¹¹² therein accepting considerable risk and making good on a promise he had made to the POW.

D. Stuart Herrington – Colonel, U.S. Army

COL Stuart Herrington, trained as a counterintelligence officer rather than an interrogator, was a leader and innovator overseeing U.S. Army interrogation operations in Vietnam, Operation Just Cause (Panama), and Operation Desert Storm (Iraq). In a fashion similar to LT Cary, COL Herrington relied heavily on his considerable linguistic ability and understanding of Vietnam (especially its culture, history, and current politics) to build rapport and trust with an array of POWs, including Viet Cong who were defiant and wholly

¹¹¹ Kristoffersen (n 109)

¹¹² RF Toliver, *The interrogator; the story of Hanns Joachim Scharff master interrogator of the Luftwaffe* (Schiffer Publishing Ltd 1997)

uncooperative during their preliminary interrogations. In Herrington's view, building rapport was indisputably "the first step in the art of defector exploitation."¹¹³

One of Herrington's trust-building efforts mirrored Hanns Scharff's work with American POWs; however, while Scharff was purposeful in his actions, Herrington profited from the trust he engendered in a purely spontaneous, albeit high risk, gambit. During the initial interview of a soldier of the North Vietnamese Army who had been sent to infiltrate the south, Herrington found his prisoner's resistance was centered around extreme patriotism that fed an image of all Americans as little more than the negative stereotypes described to him during basic training. The plan was to create an experience (a visit to Saigon, the capital city of South Vietnam) that would effectively leave the prisoner disillusioned and thereby vulnerable to being "turned" (recruited to serve as an intelligence source). While en route to Saigon, Herrington took an unplanned detour toward a quarry. After climbing out of the jeep and chambering a round into his M-16, Herrington then did something the prisoner could not have expected: he handed the weapon to the prisoner and suggested he fire it. Shortly thereafter the NVA soldier revealed to Herrington that he thought he was going to be shot, and they each admitted that the moment had been scary for them both. (Note: The NVA soldier also offered his thoughts about the M-16 and how it contrasted with the AK-47 he had been trained on.) Herrington summarized the episode in his memoir, *Silence Was a Weapon*:

"The relationship between [the North Vietnamese soldier] and [Herrington] somehow altered in a fundamental way as a result of that trip to Saigon. It was as if the incident with the M-16 and our day together in the capital had succeeded in

¹¹³ SA Herrington, *Silence Was a Weapon* (Random House 1982, p. 55)

removing a lingering barrier to mutual trust—a barrier that had persisted in reminding both of us that we were supposed to be enemies.”¹¹⁴

*E. Robert McFadden – Special Agent, Naval Criminal Investigative Service*¹¹⁵

Special Agent Robert McFadden spent a career as an investigator with the Naval Criminal Investigative Service (NCIS) where he conducted numerous subject interviews of criminal suspects and, after the advent of the Global War on Terror, interrogations with an array of high value detainees. In addition to his extensive operational experience, McFadden was also an accomplished Arabic linguist with assignments throughout the Middle East.

In the days after 9/11, McFadden, along with a case agent from the FBI, were tasked with interrogating ‘Abdul ‘Aziz bin ‘Attash, a known al-Qa’ida (AQ) member whom the Republic of Yemen held in detention—along with other AQ members and associates—after the deadly attack on the USS Cole. When McFadden and his partner first encountered ‘Abdul ‘Aziz he was, alternately, annoyed and curious. Not only had he not had many—perhaps any—encounters with Americans, but certainly not with a native Arabic speaking Muslim American (McFadden’s FBI partner), and probably never conceived of a non-native, non-Muslim Arabic speaking NCIS agent. He was unique among the prisoners the Americans were given access to in the Yemeni intelligence service’s prison in that he forcefully complained about his ‘illegal’ detention while throwing verbal insults at their Yemeni counterparts, a rare act for a prisoner held by an authoritarian police state.

The two agents were nonetheless successful in developing a useful rapport in the course of the first interview sessions, based largely on satisfying the subject’s curiosity about the

¹¹⁴ *ibid* p. 196

¹¹⁵ Personal Communications from Robert McFadden to second author (31 January 2019 - 3 February 2019)

Americans and expressing empathy for his apparent loneliness (a result of being held in isolation). McFadden and his partner also purposely portrayed an illusion of extensive knowledge (similar to the approach employed by Hanns Scharff) by conveying news from the ‘front.’

McFadden specifically sought to highlight his integrity, both as an exceptionally knowledgeable professional and as an individual who was adamantly truthful. Integrity, as noted previously, is essential to building cognitive trust in particular. Achieving this end within the limited time and the grim context of an interrogation in a foreboding prison setting is not a simple undertaking; as a result, McFadden’s ability to connect with ‘Abdul ‘Aziz, even under these conditions, highlights the operational value of trust-building.

These efforts to build trust proved to be a critical step toward gaining cooperation (and, ultimately, disclosures). Leveraging their knowledge of AQ operations and organization while simultaneously showing respect for the subject, his customs, and the dire nature of his incarceration, McFadden and his partner systematically mitigated the resistance presented by ‘Abdul ‘Aziz. What began with allegations that the Americans had no interest in the subject’s welfare slowly transformed into curiosity about what help they might be able to provide. A critically important element of McFadden’s trust-building strategy was that it remained both genuine and independent of the hope for information gain. While a quid pro quo arrangement might have formed the underlying basis for the exchange of assistance for information, there were no explicit negotiations about the arrangement, which would have undermined the trust that was growing between the subject and the interviewers.

Using skillful active listening and thoughtful elicitation, McFadden and his partner recognized that ‘Abdul ‘Aziz struggled with concern for his family’s health and safety, and

specifically hoped to somehow be able to place a telephone call to his mother. Arranging for the call proved to be exceptionally difficult, but once approved, McFadden and his partner orchestrated the scenario with precision. The offer to help was extended, one that characterized both a cost and a risk to McFadden. ‘Abdul ‘Aziz was allowed to call his mother, a concrete demonstration of McFadden’s trustworthiness. And ‘Abdul ‘Aziz was even offered a degree of privacy to make what proved to be a deeply emotional phone call, thus also presenting a willingness to trust (i.e., that the subject would not take advantage of the opportunity to communicate for nefarious purposes).

According to McFadden’s account,¹¹⁶ the phone call, along with consistent demonstration of respect for the subject’s religion, family, and culture, were instrumental in building operational accord, the relationship marked by a degree of affinity, respect, and reciprocity described previously. This, in turn, enhanced the elicitation of sensitive information from an AQ member with bona fide placement and access to the local and regional organization’s secrets.

VI. Conclusions

The consensus that interrogation involves, or even requires, the application of various degrees of psychological, emotional, and/or physical force remains entrenched within the customary knowledge of accusatorial approaches and the application of torture.¹¹⁷ Surveys conducted over the past decade suggest that this perspective has also influenced perceptions of the citizenry, which appeared to only deepen its support for the use of coercive interrogation practices even as details of such tactics being used by the U.S. (and certain allies) came to light. As an example, a 2004 survey conducted by the Pew Research Center found that 53% of Americans thought that torture should *never or only rarely* be justified in the course of

¹¹⁶ *ibid*

¹¹⁷ see Vrij (n 14)

interrogating suspected terrorists. By 2011, a similar survey reported that precisely the same percentage of Americans had come to believe that torture, when used against suspected terrorists, was justified *often or sometimes*. A poll conducted by the Associated Press in 2013 generated similar results.¹¹⁸

With empirical research and field validation studies providing affirming evidence of the effectiveness and reliability of an interrogation model based upon rapport and trust, why would such a large number of citizens assume that coercive measures are more (perhaps most) effective? The depiction of torture in the popular media (i.e., television and movies), and especially torture as a means for extracting the much-needed information that saves lives in high-risk scenarios, is one undeniable factor. In *Why Torture Doesn't Work*, neuroscientist Shane O'Mara crystalized the problem with this observation:

“Torture in the popular media is represented almost exclusively as the preserve of those who need information that is locked in the head of someone else and for whom an assault on the bodily and physiological integrity of another person in the service of acquiring such information is a necessity (and perhaps of little or no consequence to the torturers).”¹¹⁹

O'Mara makes another critical point that is of direct relevance to this exploration of rapport and trust-building strategies for interrogation. Just as support for torture is arguably an emotional impulse shaped by fiction, that support is also furthered by an incorrect understanding of the cognitive processes that are central to the fundamental objective of any interrogation:

¹¹⁸ B Lyte, ‘Americans Have Grown More Supportive of Torture’ *FiveThirtyEight* (New York City, 14 December 2014). <https://fivethirtyeight.com/features/senate-torture-report-public-opinion/> accessed 9 December 2018

¹¹⁹ S O'Mara, *Why Torture Doesn't Work: The Neuroscience of Interrogation* (Harvard University Press 2015 p. 36)

namely, the meaningful recall and communication of information stored in long-term memory. These processes include: 1) the ability to accurately, reliably, and fully recount from memory details concerning past events; 2) the motivation of the subject to share their best possible recall; and 3) the effects of stress (psychological, emotional, and physical) on both memory and motivation.¹²⁰

The ethical arguments against coercive interrogation practices are lucidly captured elsewhere in this edited volume and reflect the invaluable insights from an array of thought leaders within the domain. Of equal importance, however, is the empirical support for other approaches to interrogation that are not just as good, but demonstrably *better* than, coercion.¹²¹ An integrated model of information-gathering, informed by science-based strategies for effectively eliciting information, building rapport, and developing trust, is precisely that approach.

¹²⁰ O'Mara (n 16)

¹²¹ Meissner (n 1) (n 3) (n 9)