**Interviewing, Questioning, and Interrogation**

*“Understanding the correct processes and legal parameters for interviewing, questioning, and interrogation, can make the difference between having a suspect’s confession accepted as evidence by the court or not.”*

In modern day policing, interviewing, questioning, and interrogation techniques are measured, objective, and ethical. They are aimed at the goal of discovering the truth; not just getting a confession to a crime. This is a contrast to earlier times of policing, when techniques called the “third degree” sometimes involved threats, intimidation, coercion, and even physical violence. Fortunately, these “third degree” techniques were identified in the United States by the Wickersham Commission in 1931, as being unlawful police practices that caused false confessions and miscarriages of justice, where suspects were sometimes wrongfully convicted and imprisoned (Head, 2010).

Emerging from this, police forces across North America, who were using the “third degree” techniques to varying extents, started moving towards less oppressive and less aggressive methods of interrogating suspects (Gubrium, 2002).

While there has been a significant evolution to more objective and ethical practices, the courts still remain vigilant in assessing the way police interview, question, and interrogate suspects during criminal investigations. The courts expect police to exercise high standards using practices that focus on the rights of the accused person, and minimize any physical or mental anguish that might cause a false confession. In meeting these expectations, the challenges of suspect questioning and interrogation can be complex, and many police agencies have trained interrogators and polygraph operators who undertake the interrogation of suspects for major criminal cases. But not every investigation qualifies as a major case, and frontline police investigators are challenged to undertake the tasks of interviewing, questioning, and interrogating possible suspects daily. The challenge for police is that the questioning of a suspect and the subsequent confession can be compromised by flawed interviewing, questioning, or interrogation practices. Understanding the correct processes and the legal parameters can make the difference between having a suspect’s confession accepted as evidence by the court or not. With the above in mind, this chapter will focus on several salient issues, including:

**Interviewing** a possible suspect is the first stage and the lowest level of interaction. In fact, the person is not even definable as a suspect at this point. As pointed out in our chapter on witness management, suspects often report criminal events while posing as witnesses or even victims of the crime. The investigator receiving a statement report from such a person may become suspicious that they are not being truthful; however, until those suspicions are confirmed by evidence that meets the test of forming reasonable grounds for belief, the investigator may continue to talk to this possible suspect without providing any Section 10 Charter or cautions. There is a unique opportunity at that point to gather the poser’s version of events, including any untrue statements that may afford an opportunity to later investigate and demonstrate a possible fabrication, which is by itself a criminal offence. The transition point for an investigator to move from interviewing a witness or victim to detaining and questioning the person as a possible suspect should occur when real evidence is discovered giving the investigator reasonable grounds to suspect that the person is involved in the event. Discovering real evidence and gaining “reasonable grounds to suspect” creates an obligation for the investigator to stop interviewing the person who then becomes a suspect. At this point, the person is a suspect a should be detained for the suspected offence and provided the appropriate Section 10 Charter and Statement Caution before proceeding with the questioning of the suspect.

**Questioning** a suspect is the next level of interaction. For a suspect to be questioned, there will be some type of circumstantial evidence that allows the investigator to detain that suspect. In our previous scenario of the young man found at 3AM standing under the tree in a residential area at the boarder of an industrial complex one block away from the building where a break-in was confirmed to have taken place, that young man was properly detained, chartered, and warned for the investigation of the break-in. However, there was no immediate evidence that could link him to that actual crime at that point. He was only suspected by the circumstantial evidence of time, conduct, and proximity to the event. He was obligated to provide his name and identification. If he had tried to leave, he could have been arrested for obstructing a police officer in the execution of duty. The investigator at the scene of that incident would have questioned this suspect, and by his rights under the *Canadian Charter of Rights and Freedoms*, the suspect would not be obliged to answer questions.

This right to not talk does not preclude the investigator from asking questions, and the investigator should continue to offer the suspect an opportunity to disclose information that may be exculpatory and enable the investigator to eliminate that person as a suspect in the crime being investigated. As an example of this, again, consider our young man who was detained when found standing under the tree near a break-in. If that man had answered the question what are you doing here by stating that he lived in the house just across the street, and when he heard the break-in alarm, he came outside to see what was happening, this would greatly reduce suspicion against the young man once this statement was confirmed. Subsequent confirmation by a parent in the home that they had heard him leave when the alarm sounded could eliminate him as a suspect and result in his release.

**Interrogation** is the most serious level of questioning a suspect, and interrogation is the process that occurs once reasonable grounds for belief have been established, and after the suspect has been placed under arrest for the offence being investigated. Reasonable grounds for belief to make such an arrest require some form of direct evidence or strong circumstantial evidence that links the suspect to the crime. Of course, where an arrest is made, the suspect will be provided with their charter rights and the police caution, as per the following: