

## **What Words Should I Use When I Start Positive Persuasion (Interrogation)?**

The flexibility and effectiveness of the Reid Technique of Interviewing and Interrogation is what makes it the most widely used investigative interviewing technique in the world.

The Reid Nine-Steps of interrogation is a proven structured approach that provides the investigator with a psychological road map to the truth. It has become the ‘gold standard’ to which all other methods are measured. This investigator tip will discuss the importance of Step One of the Reid Nine-Steps of interrogation. Although Step One is very brief, representing about ten seconds of the interrogation process, the language used in those ten seconds could make the difference between success and failure. There are three basic components to Step One: the opening statement, the observation, and the transition. This investigator tip will focus on the language used in the opening statement. We will discuss the observation and transition statement in future investigator tips.

In general terms an investigation begins with a review of the case facts and evidence in an effort to identify the various individuals who should be interviewed (see Nov/Dec 2017 Investigator Tip “Factual Analysis”). Potential interview subjects include the victim, any witnesses and potential suspects.

The interview is a non-accusatory information-gathering conversation designed to develop investigative and behavioral information. (For a more detailed discussion of the Behavior Analysis Interview see Investigator Tips ‘The Reid Behavior Analysis Interview’ (July/Aug 2014) and “Conducting A Custodial Behavior Analysis Interview” (Jan/Feb 2008)). The investigator goes to great lengths to avoid being judgmental, challenging, or accusatory to any of the suspect’s statements during the interview. Following the interview, investigative steps may be taken to determine the credibility of information provided during the interview, such as the suspect’s alibi. When the investigative information and evidence indicate a suspect’s probable involvement in the commission of the crime the investigator may choose to transition into the second phase of the process - the interrogation.

The expression ‘One size does not fit all’ comes to mind when considering the flexibility of Step One. There are some instances when it would be advantageous for the investigator to be very direct with the subject in the opening statement and there are other times when it would be in the best interest for the investigator to be less direct in the opening statement. To provide the investigator with the best opening statement for his situation, we offer four fundamentally different opening statements that can be used to initiate the Reid Nine-Steps of interrogation. The opening statement in Step One represents the first time that the investigator is expressing any judgment or opinion regarding the subject’s involvement in the incident under investigation.

There are four options re the phrasing of the opening statement to initiate the interrogation process if the investigator wants to make a statement suggesting the subject’s involvement:

- *As a result of the investigation that we have conducted, and considering the information you gave me during our interview, the investigation indicates that there are some areas that we need to clarify.*

- *The results of our investigation indicate that you have not told me the complete truth about (issue)*
- *As you know, we have interviewed everyone in the area and you are the only one that we cannot eliminate from suspicion.*
- *I have in this file the results of our investigation into the (issue). The results of this investigation clearly indicate that you are the person who (committed the offense).*

There are advantages and disadvantages to each of these four statements. Therefore, the investigator should evaluate the circumstances of each case to decide which statement will give them the best chance of success securing the truth from the subject.

As you can see some statements are more provocative than others. However, each statement is communicating to the subject the investigator's opinion or judgment, based on the investigation, that the subject knows more information regarding the incident under investigation than they have revealed up to this point.

The least provocative statement is Statement 1 - *As a result of the investigation that we have conducted, and considering the information you gave me during our interview, the investigation indicates that there are some areas that we need to clarify.*

The most provocative statement is Statement 4 - *I have in this file the results of our investigation into the (issue). The results of this investigation clearly indicate that you are the person who (committed the offense).*

If the subject's attitude in the interview was defensive, argumentative, uncooperative, and in general combative then the investigator may consider using the less direct approach. Also, if the subject is in custody and has been read his Miranda rights, the investigator should consider whether the suspect may invoke their right to an attorney and refuse to talk to the investigator if the more provocative and direct opening statement is used, i.e. *I have in this file the results of our investigation into the (issue). The results of this investigation clearly indicate that you are the person who (committed the offense).*

While there is a degree of 'shock and awe' to this direct opening statement, and it will serve to clearly communicate to the subject the confidence the investigator has in the strength of their case, it might be at the expense of stopping the interrogation 'cold' if the subject asks for an attorney. If it is a non-custodial interrogation the investigator should consider whether the subject will terminate the conversation and walk out of the room if the more direct opening statement is used.

The most significant advantage to the more direct opening statement is the value of the subject's initial response. This value is significantly eroded when the less direct approach is used. Therefore, the investigator should also consider the strength of their case. If the case is purely circumstantial then the investigator may choose to take the risk of the subject invoking their right to an attorney or walking out in exchange for the value of the initial behavioral response. For example, when the investigator makes it clear to the subject, via the direct opening statement, that the results of the investigation clearly show the subject committed the crime and the subject

offers a weak denial or no denial at all, it is a strong reinforcement to the investigator of the subject's probable guilt.

This assessment is lost, however, when using the less direct approach. When advising a suspect that 'there are some areas that need to be clarified', most subjects will not offer any immediate denial or resistance to that statement because of its ambiguity.

There are several factors to consider when selecting the proper language that should be used in the opening statement of the interrogation. The following is a discussion of five of the more common factors to consider.

1. The attitude of the subject during the interview and in general during the investigative process

As briefly previously mentioned, the subject's attitude is one of the factors to consider but it is not necessarily the determining factor. For example, if the subject has a demeanor that suggests they will walk out of the room or invoke their rights if directly confronted with involvement in the commission of the crime, then the less direct statement may be preferable. However, there are some subjects who have an aggressive attitude in the interview designed to intimidate the investigator. If it is a non-custodial interview in which invoking Miranda is not a concern, then sometimes the more direct statement may be advantageous to demonstrate the confidence the investigator has in the strength of their case.

2. The quality of the evidence against the suspect: is the evidence circumstantial or is there irrefutable proof of the suspect's guilt?

If the investigator's case is purely circumstantial then the more direct statement may be preferred. The advantage of the direct statement ("...our investigation clearly shows you did [issue]") is that it provides the investigator with the best opportunity to evaluate the subject's initial response to the statement, which can then serve to increase the investigator's confidence in the subject's guilt. On the other hand, if the investigator has irrefutable proof of the subject's guilt then the initial response to the accusation is not as crucial. A less direct statement may be in order (".... there are a few areas we need to clarify"). When the evidence is circumstantial and the direct opening statement is used, the investigator should be prepared to respond to the subject's potential request to see what evidence 'clearly shows they did it'. This brings us to the next consideration - the experience level of the investigator.

3. The experience level of the investigator

Step Two, Theme Development, is the most difficult aspect of the Reid Nine-steps of interrogation. An investigator must have the ability to maintain a monologue in the face of potential verbal resistance from the subject to properly develop the themes. One of the disadvantages of using the direct statement is the increased possibility of provoking strong verbal resistance from the subject. Experienced investigators who are accustomed to handling this resistance can maintain control and at the same time develop their themes in the face of this resistance. Investigators who do not have much experience using this

method may find it difficult to get into the rhythm of the monologue in the face of this verbal resistance.

Another potential disadvantage of the direct opening statement is that it increases the probability of the subject requesting to 'see the evidence'. This probability is diminished when the less direct "there are a few areas we need to clarify" statement is used because the investigator is not making the claim that the results clearly show that the subject committed the crime. Experienced investigators are accustomed to 'talking around the evidence' whereas inexperienced investigators may stumble when the subject presses the issue to see the evidence. (For more information on the development of interrogation themes see the Sept/Oct 2017 Tip: "The fundamental foundation of the Reid Technique: Empathy and Understanding).

4. Is it a custodial or non-custodial interrogation?

When a subject is in custody the investigator must consider whether the subject will invoke his right to an attorney if they use the direct opening statement. If the investigator has irrefutable evidence and has developed sufficient rapport with the subject, then the direct opening statement may be preferred. The direct opening statement will demonstrate the investigator's confidence in the strength of their case. This is advantageous to the investigator because the subject will more likely be convinced that the investigator knows they 'did it' and will be more inclined to listen to the monologue of themes which act to persuade and influence the subject to tell the truth.

5. The nature of the issue under investigation

For example, if you have a number of subjects who participated in the commission of a crime (such as fraternity hazing that had lethal consequences) the initial statement should be more general in nature because we may not yet know the specific behavior that each individual committed.

On the other hand, if the investigation has developed overwhelming evidence of the subject's guilt, the opening statement may be very specific so as to indicate the investigator's confidence in the subject's involvement.

In some instances where you have continual losses, such as ongoing inventory shortages, some of which is undoubtedly due to employee theft, a less-direct opening statement may be appropriate, particularly if it is suspected that more than one employee is stealing.

### *The Non-Confrontational Approach*

An alternative approach is what is commonly referred to as the Non-Confrontational Approach. This interrogation process begins **without making any statement about the subject's involvement**, but simply beginning with what we call a "third person theme."

A third person theme is a real or fictitious event about the investigator, friend or past case depicting a similar type of offense to that of the suspect's and the emotional state or extenuating circumstances that led to the act. One of the benefits of using a third person

theme is that it does not encourage denials because it is not specifically directed at the subject's behavior. The following example illustrates a third-person theme.

Joe, the reason I want to talk with you today is that you remind me of a fellow we had in here a couple of weeks ago. He was young and ambitious and a real go-getter. By working his way up the ladder at a bank, he went from clerk to teller, and finally he was promoted to auditor within a period of 8 or 10 months. Everything seemed to be going well for him. He had a loving wife, two lovely children, and they were in the process of moving to a newer home in a nice subdivision. One day, while he was balancing the books, he noticed a teller had failed to record a \$6,000 deposit. This was the amount the fellow I'm talking about needed to complete a down payment on his new home. On the spur of the moment a decision was made to take the money. I don't think I have to tell you what happened next. The bank noticed the shortage after the customer called. This young auditor came under suspicion, and I remember him sitting right where you are, telling me how sorry he was for taking the money. The reason you remind me of him is that, just like him, you have a lot going for you. You are intelligent, ambitious, and are basically very honest. I think what happened to you is that on the spur of the moment you decided to do this to help pay bills for food or maybe clothes for your family. . . .

As this example illustrates, the third-person theme should somewhat parallel the present suspect's circumstances or motivation. Although the story should have a "happy ending," such as the person deciding to tell the truth, the investigator should not imply leniency as a result of the other suspect's confession.

In our training programs and written materials, we teach both the non-confrontational interview and the non-confrontational interrogation approach.

Choosing which opening statement to use in Step One can set the stage for the remainder of the interrogation, so careful thought should be exercised in deciding on the exact words that should be used in this opening statement.