MEMORY-ENHANCING TECHNIQUES FOR INVESTIGATIVE INTERVIEWING

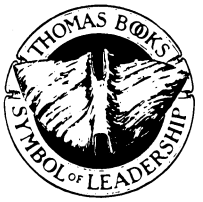
MEMORY-ENHANCING TECHNIQUES FOR INVESTIGATIVE INTERVIEWING

The Cognitive Interview

By

RONALD P. FISHER, PH.D.
Florida International University
and

R. EDWARD GEISELMAN, PH.D.
University of California, Los Angeles



CHARLES C THOMAS • PUBLISHER
Springfield • Illinois • U.S.A.

Published and Distributed Throughout the World by

CHARLES C THOMAS • PUBLISHER
2600 South First Street
Springfield, Illinois 62794-9265

ISBN 0-398-05800-8 (cloth)
ISBN 0-398-06121-1 (paper)
Library of Congress Catalog Card Number: 92-6195

With THOMAS BOOKS *careful attention is given to all details of manufacturing and design. It is the Publisher's desire to present books that are satisfactory as to their physical qualities and artistic possibilities and appropriate for their particular use.* THOMAS BOOKS *will be true to those laws of quality that assure a good name and good will.*

Printed in the United States of America
SC-R-3

Library of Congress Cataloging-in-Publication Data

Fisher, Ronald P.
Memory-enhancing techniques for investigative interviewing : the cognitive interview / by Ronald P. Fisher & R. Edward Geiselman.
p. cm.
Includes bibliographical references (p.) and indexes.
ISBN 0-398-05800-8. — ISBN 0-398-06121-1 (pbk)
1. Interviewing in law enforcement. 2. Police questioning.
3. Memory. I. Geiselman, R. Edward. II. Title.
HV8073.F523 1992
363.2'54—dc20 92-6195
CIP

Dedicated to my father, Reuben Fisher, and mother, Fay (Fisher) Braunstein, whose love and guidance are forever appreciated (R.P.F.).

Dedicated to my wife, Cynthia Jay-Geiselman, whose inspiration has made my efforts worthwhile (R.E.G.).

PREFACE

Our interest in memory-enhancement interviewing techniques developed rather innocently. In casual conversations, we often found that we could help neighbors and family members to remember where they had lost or misplaced objects, like keys and eyeglasses. Similarly, we sometimes alleviated friends' distress by helping them to remember the names of people, telephone numbers, or addresses they had temporarily forgotten.

Initially, we were unaware that our ability to help stemmed from our professional training in the science of cognition (memory, perception, attention, speech, and other mental activities). Later, in retrospect, we realized that many of the techniques we used to prompt memory came directly from the scientific, laboratory research we lectured about in our college classrooms. We soon realized that such knowledge could be valuable for those professionals who regularly conduct investigative interviews where memory and ability to describe details are critical. Naturally, we thought about police detectives who are constantly interviewing victims and eyewitnesses to probe their memories for detailed descriptions. With encouragement from the Los Angeles Police Department, and later from the Metro-Dade Police Department, we began to pursue the issue more systematically and started on a program of laboratory and field research to develop the Cognitive Interview.

Since the early developmental stages, we have worked closely with several police departments conducting training workshops or interviewing victims and eyewitnesses in particularly interesting criminal cases. The present book is our attempt to share the knowledge we have gained in the past ten years with others who will conduct investigative interviews in the future.

Much of the work described in this book has appeared in other professional, research-oriented sources: either in journals, book chapters, or conference lectures. Our goals here are to organize all of this material into one coherent work, and to present it in a handbook form so it can be

used by applied investigative interviewers. We provide some conceptual background about memory retrieval and communication, so readers will have a better understanding of why and how the practical suggestions work. The main focus, however, is on practical application.

Most of the sample interviews that appear in the book have been excerpted from real police cases. In these instances, all identifying information (names, telephone numbers, license plate numbers, etc.) has been changed so that any resemblance between the information provided here and the original case is purely coincidental.

Although only two authors' names appear on the cover of this book, many individuals and institutions contributed their knowledge and resources. We wish to acknowledge the National Institute of Justice (grants USDJ-83-IJ–CX-0025 & USDJ-85-IJ–CX-0053) without whose support the research to develop the Cognitive Interview could never have been undertaken. We also would like to extend our thanks to the many local police officers who assisted in the research, especially to Chief John Farrell and the members of the Robbery Division of the Metro-Dade Police Department, Captain Mike Nielsen and Dr. Martin Reiser of the Los Angeles Police Department, and Detective Tom Sirkel of the Los Angeles Sheriff's Department.

The burden of collecting and analyzing the data during the research phase was borne by a devoted set of research assistants: David MacKinnon, Heidi Holland, Kim O'Reilly, Gail Bornstein, David Raymond, Michael Amador, Lynn Jurkevich, Monica Warhaftig, Kathy Quigley, David Tacher, Alex Torres, Michelle McCauley, and Denise Chin. Many of our current ideas have evolved as a result of having presented training workshops to police and other investigative agencies. We are particularly grateful to Detective Sergeant Richard George of the City of London Police Department, the members of the polygraph division of the Israeli Police Department, and the investigators from the National Collegiate Athletic Association, who have provided valuable feedback during these presentations. A significant portion of this book was written while one of us (RPF) was on sabbatical leave at the University of Haifa, where excellent working conditions (minus a few Scud attacks) and a colleagial atmosphere were provided. Finally, we would like to thank Drs. Brian Cutler, Alan Fisher, and Janet Fisher, who have given us valuable feedback on earlier drafts of this book.

CONTENTS

MEMORY-ENHANCING TECHNIQUES FOR INVESTIGATIVE INTERVIEWING

Chapter 1

INTRODUCTION

Despite the obvious importance of eyewitness information in criminal investigation, police receive surprisingly little instruction on how to conduct an effective interview with a cooperative eyewitness (Sanders, 1986). In a study by the Rand Corporation (1975) more than half of the police departments polled reported that they had no formal training whatsoever for newly appointed investigators[1] (see Cahill & Mingay, 1986, for a comparable lack of systematic training for British police). Most text books in police science either completely omit the issue of effective interviewing techniques or provide only superficial coverage (e.g., Harris, 1973; Leonard, 1971; More & Unsinger, 1987; O'Hara & O'Hara, 1988). Reflecting this lack of formal training, police often maintain a less-than-rigorous attitude toward this phase of investigation. As one police officer described his interviewing approach, "You just ask them what, where, why, when, and how." It is not surprising, therefore, that police investigators often make avoidable mistakes when conducting a friendly interview and fail to elicit potentially valuable information. The intent of this book is to provide the police interviewer (***INT***) or any other investigative ***INT*** with a systematic approach so that he can elicit the maximum amount of relevant information from cooperative eyewitnesses (***E/Ws***).[2]

The language of this book is couched in terms of police investigations, primarily because our research has been conducted with police par-

1. Our informal survey of police officers in the Miami and Los Angeles areas revealed that almost none had any scientific training in interviewing cooperative eyewitnesses. What training they had received focused primarily on the formal and legalistic requirements of the investigative interview. Some detectives received scientific training in interrogating potential suspects, but clearly, different techniques ought to be used to elicit information from suspects than from cooperative witnesses.

2. Two notes about writing style: Because the terms "eyewitness" and "interviewer" appear so frequently, we use the handier abbreviations, ***E/W*** and ***INT,*** for economy. Throughout the book we use the feminine terms ***she*** and ***her*** to refer to the eyewitness (***E/W***) and the masculine terms ***he*** and ***him*** to refer to the interviewer (***INT***). We make this distinction only to avoid ambiguity, so that it will be clear whether we are referring to the ***E/W*** or the ***INT.*** In our research, both men and women served as ***E/Ws*** and ***INTs.*** As such, our conclusions are intended for both men and women ***E/Ws*** and ***INTs.***

ticipants. However, since the Cognitive Interview is based on general principles of cognition, it should be useful by anyone conducting an investigative interview, whether a police detective, fire marshal, state-, defense-, or civil attorney, private investigator, etc.[3] The central problem is identical in all investigative interviews, to extract relevant information from the mind of the respondent. Non-police investigators, who are as likely as police to be untrained in the science of memory, can therefore benefit equally from the Cognitive Interview. We suggest that they simply modify the general concepts to make them compatible with their particular investigative conditions.

There are, unfortunately, a variety of factors that limit the amount of information reported by ***E/Ws.*** Many people simply "don't want to get involved"—they are afraid of the potential consequences, they find court appearances inconvenient, etc. Other seemingly innocent ***E/Ws*** are, in fact, suspects and prefer to divulge as little information as possible. Still others have such poor communication skills as to make effective interviewing impossible. Practically, little can be done to overcome those hurdles; they are built into the system. Our concern is to focus on an investigative problem that can be remedied, one where we can make detective work more efficient. One such universal problem is the limitation imposed by human memory, a problem faced by all ***E/Ws,*** caring or unconcerned, cooperative or uncooperative, victims or innocent bystanders, . . . As opposed to the other insurmountable obstacles of investigation, eyewitness memory definitely can be enhanced by appropriate interviewing techniques. The focus of this book is to describe an interviewing technique that can assist the investigative process by increasing eyewitness recollection.

The Cognitive Interview has evolved over the past several years and reflects a multidisciplinary approach. We have relied heavily on the theoretical, laboratory research in cognitive psychology (hence the name "Cognitive Interview") that we and other psychologists have conducted over the past thirty years. In addition, we have borrowed concepts from other disciplines of investigative interviewing: journalism, oral history, medical interviews, psycho-therapeutic interviews, etc. Having established a sound, theoretical basis for memory-enhanced interviewing, we sharpened these principles with a heavy dose of practical research. Some

3. See Fisher and Quigley (1991), summarized in Appendix B, showing how the technique can be modified to improve public health interviews about recalling foods eaten at an earlier meal.

of this practical experience reflects our "ride-alongs" with police detectives in the field. We have conducted several interviews ourselves, either for police or for private investigators. Most of our practical research stems from intensive listening and analysis of hundreds of hours of tape-recorded interviews conducted by experienced police detectives. Finally, we interviewed several of the police detectives who participated in our experiments to elicit their views on different interviewing techniques. The Cognitive Interview, therefore, is an eclectic approach, making use of ideas found across a variety of people, research approaches, and disciplines.

Because of our scientific training, one principle that we have upheld steadfastly throughout the entire research program is that we would recommend the Cognitive Interview only if its merit could be demonstrated scientifically. Regardless of how intuitively reasonable our approach was and regardless of how many "experts" endorsed our ideas, our ultimate concern was always whether or not the effectiveness of the Cognitive Interview was supported by objective data. When tested, does the Cognitive Interview actually elicit more information than a standard, police interview?

Since we assume that many of our readers will take such a healthy, skeptical position, we present in Appendix B a summary of the scientific evidence documenting our claims. We recommend that the serious investigator read the original, detailed journal articles for a more thorough description of the research. In brief, experimental tests of the Cognitive Interview showed it to increase substantially the amount of information gathered in many different settings. It worked with student and nonstudent ***E/Ws;*** it worked with novice and experienced investigators; it worked with criminal and civil investigations; it worked in the laboratory, and more important, in the field, with actual victims and witnesses of crime.

Thus far, two independent studies have been conducted to test the Cognitive Interview in the field, with victims and witnesses of crime. One study was conducted in the United States, with the Metro-Dade (Miami) Police Department (Fisher, Geiselman, & Amador, 1989), and one study was conducted in England, with investigators from various police departments (George, 1991). In the American study, experienced detectives elicited 47 percent more information after training on the Cognitive Interview than they did before training. In the British study, the detectives elicited 55% more information after training than before

training. Interestingly, the only detective who did not improve with training in the Cognitive Interview (in the U.S. study) is the one detective who did not change his style of interviewing.

How does the Cognitive Interview compare with other attempts to enhance memory, specifically hypnosis? An overview of the scientific literature shows hypnosis to be unpredictable. Some researchers show that hypnosis enhances memory, whereas others find no effect (see Smith, 1983; Orne, Soskis, Dinges, & Orne, 1984, for reviews). On the negative side, a major reservation about using hypnosis in forensic investigations is that ***E/Ws*** become highly suggestible to leading or misleading questions (Putnam, 1979). By comparison, the Cognitive Interview is relatively immune to the effects of leading questions (Geiselman, Fisher, Cohen, Holland, & Surtes, 1986). Furthermore, while hypnosis requires a lengthy training period and also significantly lengthens the interview session, the Cognitive Interview can be learned within a few hours, and lengthens the effective interview time by only a few minutes. Overall, then, the Cognitive Interview is more reliable as a memory enhancer than is hypnosis, it induces less distortion, and it is more easily learned and implemented.

The only other technique we are aware of that has been tested scientifically is Conversation Management, a procedure used in some British police departments. As described by George (1991), Conversation Management "seeks to equip interviewers in the social and communication skills required to open, and keep open channels of communication in order to find out facts." (p. 4). In a formal test of Conversation Management, George (1991) found that it enhanced recall of witnesses and victims of crime, but only slightly and considerably less so than did the Cognitive Interview. Furthermore, more time was required to train investigators in Conversation Management (five days) than in the Cognitive Interview (two days) (see Appendix B for more details of the research). In defense of Conversation Management, its primary focus is on interrogating suspects, not on interviewing cooperative witnesses.

Although the Cognitive Interview is an effective investigative instrument, its utility will vary from one situation to another. Its primary contribution will be in cases like commercial robbery or battery, where the bulk of the evidence comes from ***E/W*** reports, as opposed to crimes where there is an abundance of physical evidence. Second, the Cognitive Interview was designed to be used with cooperative ***E/Ws.*** Witnesses who intentionally wish to withhold information will not be "broken" by

the Cognitive Interview. Third, the Cognitive Interview may take somewhat longer to conduct than the standard police interview.[4] Thus, it can be used to greatest effect when there is ample time to conduct the interview. Finally, the Cognitive Interview requires considerable mental concentration on the part of the ***INT***. He must make more on-line decisions and show greater flexibility than is typically demonstrated in police interviews. In that sense, it is more difficult to conduct the Cognitive Interview than the standard interview. With practice, however, most of the mental concentration required initially will be handled automatically (see Chapter 13 for an effective training program to learn the Cognitive Interview).

One striking, although not unexpected, finding in our research is that some ***INTs*** consistently elicited more information than others. While some of the differences between good and poor ***INTs*** no doubt reflect personality traits that cannot be altered readily, the real concern is whether other important interviewing skills can be learned. Our research demonstrates that most ***INTs*** can learn new techniques and increase their effectiveness. The goal of this book is to describe these successful techniques so that all ***INTs*** can elicit more ***E/W*** information.

Because this book is geared primarily to the practicing investigator, it is written in a how-to-do-it style, with emphasis on practical techniques rather than on theories of cognition. However, we also feel that readers should understand the scientific principles on which the suggested techniques are based. We therefore describe the background scientific reasoning and provide the literature references for readers who wish to explore the theories in more depth. In order to maintain the practical orientation, however, we have presented the underlying theories and laboratory findings as extensive footnotes. Those who wish to understand why the technique works are encouraged to read the footnotes carefully. We especially recommend that attorneys read the footnotes, as we discuss there several legal practices that either violate well-established principles of cognitive psychology or are incompatible with recent experimental findings.

The following is a brief summary of the topics covered in each chapter. In The Complexity of Eyewitness Memory (Chapter 2), we provide an

4. In the two field studies conducted thus far, the Cognitive Interview did ***not*** take any longer than did standard, police interviews (Fisher, Geiselman, & Amador, 1989; George, 1991). The Cognitive Interview did take somewhat longer in some of the laboratory studies, however, the additional time was not the cause of its superiority (see Fisher & McCauley, in press).

analysis of memory and forgetting, specifically how it applies to eyewitness recall. We examine the ***INT's*** role in facilitating memory, and conclude with an overview of the Cognitive Interview. The Dynamics of Interviewing (Chapter 3) focuses on the interactive nature of interviewing. We look at some of the differences between the ***INT's*** and the ***E/W's*** expectations of the investigation, how to bridge some of these differences, and, in general, how each member of the interview team affects the other. Overcoming Eyewitness Limitations (Chapter 4) describes some of the major factors that limit eyewitness recall (anxiety, confidence, and communication skill) and indicates several techniques that can be used to overcome these limitations.

The next two chapters examine some of the more practical aspects of interviewing. Logistics of Interviewing (Chapter 5) addresses the questions of where and when to conduct interviews, and explores issues that arise from conducting multiple interviews with the same ***E/W.*** Mechanics of Interviewing (Chapter 6) deals with the nuts and bolts of interviewing, how to word questions, and the advantages and disadvantages of different question formats (e.g., open-ended vs. direct, closed questions).

Principles of Cognition (Chapter 7) examines the fundamental principles of cognition: how knowledge is represented in the ***E/W's*** mind, and how it is retrieved from memory. The following, companion chapter, Practical Techniques to Facilitate Memory (Chapter 8) converts these principles of cognition into practical interviewing techniques that can be used to increase the amount of information recalled. In the next chapter, Witness-compatible Questioning (Chapter 9), we develop a cardinal, but often-violated, rule of effective interviewing. Because all of the relevant information resides in the ***E/W's*** mind, she, not the ***INT,*** should play the central role in the interview. The ***INT*** simply assists her to recall the information. Assisting the ***E/W*** to recall the information, however, depends on how it is stored in her mind. Probing Image and Concept Memory Codes (Chapter 10) describes techniques to elicit this information, whether it is stored in the form of a mental image or an abstract idea. Having presented all of the individual components of the technique, we turn to the Sequence of the Cognitive Interview (Chapter 11), which develops a systematic, sequential structure of the entire interview and indicates the different approaches and techniques to be used at the beginning, middle, and end of the interview. This chapter integrates the information from the preceding chapters and, in a sense, puts it all together in one package.

The remaining chapters are intended primarily to sharpen the skills previously learned and to assist in applying the Cognitive Interview in an actual case. Sample Interviews with Analysis (Chapter 12) provides excerpts of two interviews, along with our comments to highlight good and poor interviewing techniques. In the final chapter, Training Program to Learn Cognitive Interviewing (Chapter 13), we describe an effective procedure to learn the Cognitive Interview. This chapter reflects our experiences in conducting training workshops with various police departments and other investigative agencies and is directed both to investigators who wish to teach themselves and to trainers who will teach others. A Reference Guide to Conducting the Cognitive Interview (Appendix A) is provided for investigators to use as a handy reference. Investigators may find this guide particularly helpful as a last-minute review before conducting an interview. Finally, a Summary of Research (Appendix B) is presented to document our claims about the technique. The studies described were conducted in the United States, Germany, and England by research psychologists and police detectives trained in scientific research.