



We the

Are

LIARS?

Getting an Admission at Any Cost

By Amber Virgilio

INTERROGATOR: *Hello Sally, my name is Todd, and I work in the loss prevention department. My role in the company is to investigate loss, but truthfully I have lots of stores to cover and I'm spread pretty thin. Regardless of not having much evidence against you, I want to ask you, "Did you steal the bank deposit yesterday?"*

SALLY: *Yes, I took it and I feel awful about it.*

INTERROGATOR: *Do you feel so bad that you'd like to pay us back the entire amount?*

SALLY: *Yes, I'd be glad to, and I should probably lose my job for having such a poor lapse in judgment.*

INTERROGATOR: *I agree Sally, in fact, some friendly police officers outside will ensure you make it right for the company.*

SALLY: *Well, that's okay. I guess it's only fair since I was dishonest and stole from the company.*

INTERROGATOR: *Thank you, Sally, for telling me the truth.*

Until people start being this remorseful or they stop stealing altogether, there will always be a need for the interrogation process. Whether an individual is brand new to the LP industry or a veteran executive, no one can deny how fascinating this process has become.

“It’s my opinion that at times the admission can become more important than the reasoning behind what occurred or sometimes the truth itself. Don’t misunderstand me, admissions are important, but how many times have we had someone admit to misappropriation for the wrong reasons? The admission of theft may be correct, but the avenue for redemption or acceptance from an interviewer standpoint was incorrect. We have all been trained on the art of minimization and misdirection during an interview, but is that a skill of the trade or a misguided ideology?”

- Jason Jones, Director of LP, Risk, and Safety, Vans

After watching *CSI*, *24*, and too many *Law and Order* marathons, many in the public probably think they know exactly what occurs during the interrogation process. However, once the average, non-LP practitioner begins to look behind the scenes, the perspective changes. The complexities of the process are revealed, leaving inherent and rarely addressed questions:

- How do LP practitioners deal with the pressures of conducting interrogations in a forthright and honest way?
- What are the boundaries when it comes to obtaining an admission?
- How are job performances of interrogators measured and does that affect how interviews are conducted?

Needless to say, broaching these questions in a formal way raised an abundance of opinions from all types of retailers, academics, technique experts, and industry consultants. Responses from more than twenty-five interviews covered integrity, interrogation techniques, rationalizations, measurement, and controls as well as skills required for professional excellence.

This article addresses the first two questions raised regarding interrogator conduct and boundaries around obtaining an admission. A second article in the July-August edition will discuss interrogators’ performance measures, and what measures and controls are necessary to maintain an ethical standard among loss prevention teams.

The responses are summarized in this article using the collective “we” in reference to the industry perspectives revealed via these conversations.

Interview vs. Interrogation

Many LP practitioners interviewed felt it was extremely important to make a clear distinction in terminology when discussing this process. The most important difference was clearly addressing the divergence between *interview* and *interrogation*.

“The non-accusatory interview is about understanding the facts and receiving an explanation of the facts with relevant details,” said Joseph Buckley, president of John E. Reid and Associates, describing the differences within the context of the Reid method. “Once you’ve completed the initial investigation, you move into the interrogation process that begins with a direct accusation typically in one of three forms.”

“It’s important to adequately differentiate between two disparate interview techniques,” said Donald Horan, CPP of Gordon Brothers Group. “Today’s loss prevention professional should not engage in an accusatory interview without having the investigative proof of wrongdoing in hand prior to the employee encounter. The fact-finding interview serves to seek only a new direction or new resource from which to continue...or restart... the investigation. The fact-finding interview needn’t yield the culprit, only the means by which an accountable party can be identified.”

There are various distinctions and definitions among practitioners and technique experts. However, for the purposes of this article, respondents are solely discussing the process when a person is being interrogated for wrong-doing.

Old vs. New

A thoughtful conversation about the present mindset of LP practitioners cannot occur without proper considerations given to the past both from the legality of the interrogation process and considering a large percentage of practitioners have a law enforcement background.

Over the years courts have handed down many rulings regarding truthfulness in the interrogation process. The case law regarding criminal interrogation is clearly on the side of the interrogator. Both LP practitioners and interrogation experts are quick to point out the 1969 landmark decision by the U.S. Supreme Court regulating false statements made to a suspect in the case of *Frazier v. Cupp*, 394 U.S. 731. This well-known case involves a homicide suspect confessing after he was falsely told an accomplice had already implicated him in the killing. In short, the Supreme Court ruled that the use of trickery and deceit can be permissible if it does not shock the conscience of the court or community, depending on the circumstances.

The case draws clear distinctions regarding the type of false statements allowed specifically about being in possession of evidence that implicated the suspect in the crime, such as eyewitness, fingerprints, and DNA. A later case in 1993 draws even clearer distinctions between intrinsic lies and extrinsic lies. The difference being *intrinsic lies* deal with the investigation and *extrinsic lies* relate to legal issues or the court system. These two cases are the foundation most interrogators build from in an

effort to walk the often thin line between what is and is not okay to lie about.

But how do these standards fit in the retail world?

As loss prevention investigators aren't we dealing with an entirely different set of risks when it comes to intentionally deceiving a suspect...rather, one of our own employees?

According to Curtis Baille's March 2010 article, "How Litigation Shapes Retailers' Security and Loss Prevention Strategies," in *Security Technology Executive*, industry figures indicate the cost of successfully defending a lawsuit can be \$50,000 or more. In February of this year, a weekly legal journal, *The Madison County Record*, reported a woman was suing Wal-Mart for more than \$400,000 for an alleged bad stop by a loss prevention agent. As retailers first and loss prevention executives second, the legal risk is often significant each and every time you walk into an interrogation room.

Goal—Truth or Admission?

The first question most respondents wanted to address was the actual purpose of an interrogation. Was it to obtain a confession or find the truth of what occurred?

"The ultimate goal of any interviewer or interrogator is to determine the truth or facts, not to simply get a confession," said Paul Jones, Global Director of Asset Protection at eBay.

"First and foremost interviews are not about getting a confession," said Karl Langhorst, CPP, CFI, corporate director of loss prevention for The Kroger Co. "They are about finding the truth. If your goal is always focused on obtaining admissions, then you're not open to the possibility of innocence, no matter how slight, and that can cloud your judgment in the process."

The overwhelming response about the goal of an interview was to obtain the facts and the truth around what occurred. So why does this topic spark so much debate and passion? Why so many varied and ardent opinions? It turns out the devil is in the details of the process. We're all agreed that the truth is the ultimate goal, but the obvious rub is *how* LP professionals get to that final destination.

"I believe that every loss prevention professional regardless of the position within an organization strives to obtain the admission every time they sit across from someone," said Jason Jones, director of loss prevention, risk, and safety for Vans, a division of the VF Corporation. "It's my opinion that at times the admission can become more important than the reasoning behind what occurred or sometimes the truth itself. Don't misunderstand me, admissions are important, but how many times have we had someone admit to misappropriation for the wrong reasons? The admission of theft may be correct, but the avenue for redemption or acceptance from an interviewer

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standpoint was incorrect. We have all been trained on the art of minimization and misdirection during an interview, but is that a skill of the trade or a misguided ideology?"

Everyone agrees there has been a broad sweeping shift within the industry when it comes to acceptable interrogation practices. Dave Zulawski, CFI, CFE, senior partner of Wicklander-Zulawski & Associates (W-Z) agrees, stating, "Back in 1982 when I started in this industry, it was more prevalent to see screaming and yelling tactics employed or keeping a suspect in a room for five or six hours.

"Our industry has evolved out of necessity. In the old days it was left to the loss prevention professional to make the final decision about firing an employee after an interrogation. With the advent of a more involved human resources role, loss prevention practitioners are held to a higher level of accountability. Out of this expanded accountability came the growing need for company and policy standards as well as the need to certify our knowledge base with programs like the Certified Forensic Interviewer (CFI) and the LPQualified (LPQ) and LPCertified (LPC) certifications. These are our next steps in elevating the profession," says Zulawski.

Kroger's Langhorst concurs. "From my experience in our industry, you fortunately don't see much of the old school way of conducting interrogations anymore that are just solely focused on getting a confession no matter what," said Langhorst. "Additionally, that old school thought process is not in alignment

with my company's core values or my philosophy as an LP practitioner. Our profession has come a long way from the dark ages of reactive security to business partners who treat employees with respect and courtesy. The strategic shift in our profession is due, in part, to organizations like W-Z and the CFI designation. It's also due to publications like *LossPrevention* and industry conferences such as the National Retail Federation's LP event in June where industry professionals can come together to network with their peers and stay abreast of current loss prevention practices and technology." Langhorst had served twenty-five years in law enforcement prior to joining the retail industry twelve years ago.

"The development of the CFI program has been critically important to demonstrate that LP practitioners have a standard of legal and technical concepts along with a code of ethics," said Alan Tague, vice president of loss control for Gander Mountain. At the end of 2009, the CFI credential reached the 1,000 certified mark after beginning in 2004. Compared with the growth of other certifications that did not grandfather people, this growth is remarkably ahead of the curve.

"In addition to the CFI, the LPC course initiated by the Loss Prevention Foundation is rapidly becoming the benchmark of knowledge for the industry from a strategic business partner and well-rounded executive standpoint," said Frank Johns, senior VP of stores, internal audit, AP, ethics, and compliance for A.C. Moore. "With the CFI certifying expertise in interviewing technique and the LPC addressing all other aspects of the business environment, our industry has come so far in such a short time in terms of education standards." Both the CFI and LPQ/LPC certifications are preferred requirements for a growing staple of major retailers in the marketplace (see page 62).

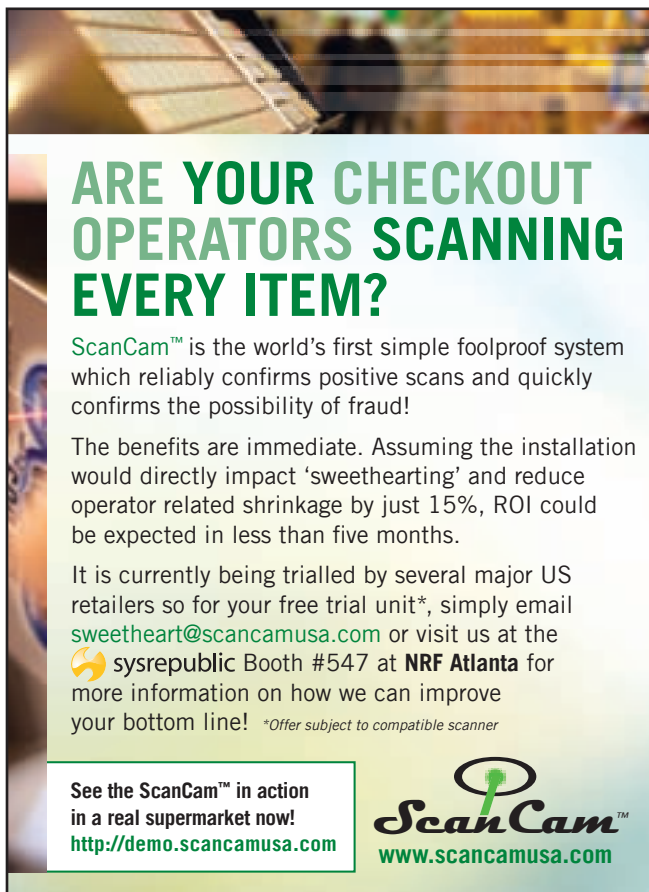
The evolution of our industry from a Hollywood-hyped interrogator applying scare tactics and intimidation to a strategically trained, professional "behavioral scientist" is highly attributed to continued education for certifying knowledge about the correct techniques to apply when dealing with an intense interrogation situation.

Are We Rational-LYING?

According to John E. Reid's article on PoliceLink titled "The Use of Rationalization During an Interrogation Theme," there are two conditions that must be satisfied before a person decides to commit a crime. First, the individual must believe that he or she will not be punished for the crime. Second, the person must be able to justify the criminal behavior in some manner.

The second condition is what has developed the rationalization or theme-development process. The rationalization has been defined by Reid as a defense mechanism individuals use to justify their criminal behavior by psychologically distorting the true intention behind their crime. Among those interviewed for this article, the rationalization process was the most widely debated regarding what was considered acceptable.


"Unfortunately unskilled interrogators can emotionally wound people," said Zulawski. "The rationalization process




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helps the interviewer express understanding and a person's life challenges while removing the individual's feeling of being judged. It's about helping someone through a difficult time in a positive way."

In the article "Compassionate Interviewer" by Wayne Hoover, CFI and Chris Norris, CFI, published on www.RILA.org, rationalizations are explained this way, "The truly compassionate interviewer helps soften these emotional bumps to encourage the individual to purge themselves of their guilt. The summary of rationalizations provides the first step in the face-saving process at a point where the subject feels he is a victim."

The interrogation experts have defined this process with relative ease, but in execution how do the ethical standards hold up? Jason Jones gets to the heart of the matter stating, "I believe the question that everyone has to ask themselves is how many times have you used a rationalization that was slightly embellished or modified to fit the investigation?"

"I know that the best interviewers I have witnessed have pulled from their own personal experiences and examples to connect to the subject during the interview. I myself have used stories and connective examples to obtain admissions that were not personally my own. Is this a lie? I don't believe so. What I do believe to be unethical and illegal is the promise of absolution of responsibility/accountability in exchange for an admission of guilt" or quid pro quo, explains Jones.

"First and foremost interviews are not about getting a confession. They are about finding the truth. If your goal is always focused on obtaining admissions, then you're not open to the possibility of innocence, no matter how slight, and that can cloud your judgment in the process."

- Karl Langhorst, CPP, CFI,
Corporate Director of LP, The Kroger Co.

The question Jones discusses regarding how far is too far in the rationalization process garnered the most varied responses. The only distinct line drawn that everyone agreed on is the notion it is never okay...and often illegal...to lie about promises of leniency or the use of threatening harm. Many professionals discussed "someone I know" who still conducts interrogations in this manner, but trying to locate these types of professionals for comment was often problematic.

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“Part of the interrogation process is to let the interviewee’s imagination run wild and part of that process is for them to fill in the blanks to a question. By definition, it’s a question and not a lie. Then it’s the interrogator’s responsibility to watch and analyze behavior. What is said in the interview is only a very small piece of the puzzle. The questions make them think, eliciting behavior for us to analyze.”

- Stephen Scott, Director of LP, Tractor Supply Company

“I’ve certainly witnessed interrogations using rough-house tactics like saying the subject would never see their kids again or saying they won’t be prosecuted if they admit,” said a 37-year industry veteran at a large supermarket chain in the South. “I’d much rather be confident in my evidence than to go into that situation half-cocked. Just sit back and wait; they’ll steal again.”

Some practitioners believe the rationalization or theme-development process is fair game for an “anything goes” type approach as long as they concluded the process with an admission.

“If I have the evidence I need before I walk in the door, depending on the scenario, I will say whatever is required to get the truth out of a person,” said a Canadian-based LP manager with more than ten years’ experience. “As long as I don’t make false promises, lying is certainly allowable, acceptable, and part of the process to bend the truth to whatever the subject will relate to. Bottom line, I tell them whatever I need to tell them to get the truth.”

“It’s not a yes or no issue. I understand and acknowledge that it may be necessary for you to adjust the facts. However, it depends on the crime and level of situation you’re dealing with,” said Kevin Ling, loss prevention manager at Giant Tiger Stores.

“Sure, 99 percent of the rationalizations I give are true—the other one percent are because I’m dealing with someone who can’t relate to anything in my background,” said a ten-year industry LP director based in Texas. “I tell the one percent that I actually made the same mistake they’re accused of, and they will typically admit.” These types of approaches beg the question—is the use of lies a necessary part of the rationalization process or is that a misrepresentation of the method?

Industry expert Dave Zulawski disagrees with lying and makes this distinction stating, “The primary reason people confess is they think you have evidence. If an interrogator is

lying to the subject, and they make one small mistake in the facts and the subject catches them, their credibility is shot. Not only is it ethically wrong to lie, it’s unnecessary, and it could hurt your investigation.”

Other practitioners agreed with Zulawski taking a more hard-line stance on the issue, stating that it is never acceptable to lie in the interrogation process.

“The best rationalizations are those that come from real life, not as a first-person account, but something you’ve seen or read about in the media,” said Tuan Benson, a thirty-year industry executive and director of loss prevention for a Spain-based hospitality retailer. “It is never okay to lie or mislead a suspect about evidence; and if you’re doing your homework, you won’t need to lie about rationalizations either.”

“The best rationalizations don’t have to be fancy—simple, direct, and purposeful,” said a specialty retail LP executive with more than fifteen years of experience. “True rationalizations are the easiest to remember and the simpler the better. As an interrogator you’re trying to have a truthful conversation with a resolution. It’s a very clear line—no lying. Lying actually makes the process more difficult.”

“I do not believe, nor do I practice or train, that boldface lying is beneficial,” said Doug Newsome, director of loss prevention for Goodwill Industries of Upstate Midlands South Carolina. “I believe that in investigations, just as in life, outright lies will come back to bite you and ultimately be detrimental to the case and your reputation.”

Interrogation Skills: It’s a Shade of Grey

After determining the disparate opinions and practices of LP professionals from varying backgrounds, a new question is raised. What type of LP practitioner resorts to lying during the process? It was a constant theme that respondents kept addressing. When it comes to rationalizing in an interrogation process, do we all have the necessary skills to keep the interrogation process truthful?

Former law enforcement for twenty years and now a hospitality retail loss prevention practitioner states, “Not everyone’s skill set is the same. The majority of people in the field don’t have the skills required to conduct truthful rationalizations. When those folks don’t have the necessary training, they get boxed into a corner and do what they have to do to get the truth.”

“Ninety percent of the interrogation happens before you walk into the room by being methodically prepared for all scenarios,” said Stephen Scott, director of loss prevention for Tractor Supply Company. “Even though it may be legal to lie, it’s not consistent with the Tractor Supply Company culture and is not taught as part of our interrogation process.

“As interrogators we operate in a very narrow shade of grey. Only the most skilled and ethical professionals can be successful in this space. Of course it starts with treating every person with respect. I think some loss prevention

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“The primary reason people confess is they think you have evidence. If an interrogator is lying to the subject, and they make one small mistake in the facts and the subject catches them, their credibility is shot. Not only is it ethically wrong to lie, it’s unnecessary, and it could hurt your investigation.”

– David Zulawski, Senior Partner,
Wicklender-Zulawski & Associates

ARE WE THE LIARS?

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people forget that we shouldn’t feel gratified firing one of our own employees. There is significant capital invested in these individuals and we always want to focus on prevention and try to prevent the interrogation process by investing in proper training and awareness programs. Who gets a thrill out of putting people in jail?” asks Scott.

“Some skills can’t be taught,” said Bill Tursi, director of loss prevention at Goodwill Industries of Southwest Florida. “Interrogators must have an inherent ability to read people. They must be sharp and prepared, with the ability to change strategy midstream if something isn’t working. Preliminary work is critical because it forms a foundation to be prepared for the unexpected. The best interrogators are students of the industry—they never stop learning.”

Part of operating in that shade of grey Stephen Scott refers to often includes the bait or enticement question. All practitioners agreed this element of the interview definitely needs to be handled with care. However, it does not cross the line into boldface lying.

“Part of the interrogation process is to let the interviewee’s imagination run wild and part of that process is for them to fill in the blanks to a question,” Said Scott. “By definition, it’s a question and not a lie. Then it’s the interrogator’s responsibility to watch and analyze behavior. What is said in the interview is only a very small piece of the puzzle. The questions make them think, eliciting behavior for us to analyze.”

“I do think it is acceptable to allow the person to make their own assumptions following statements that the interviewer has the *ability* to use video surveillance, point-of-sale reports, secret shoppers, et cetera,” said Goodwill’s Newsome. “Also, it is completely ethical for an interviewer to address the subject with questions such as, ‘Is there any reason we would have a witness or video surveillance of you giving an unauthorized discount, or in a certain area, or giving away merchandise?’ The interviewer is not

stating that the evidence exists, but allowing the subject to draw their own conclusion about whether such material *might* exist.”

According to interviewees’ perspectives, this shade of grey can be a complex and heavy burden to carry into each unique situation. Practitioners have strong opinions about over-zealous, under-trained investigators that “push the envelope” when it comes to obtaining admissions. Overwhelmingly the sentiment was continually reinforced that these careless LP practitioners make it harder on the majority that operate respectfully in this risky shade of grey.

The Answer Is...No

After a multitude of interviews and research, the answer to “Are We the Liars?” is clearly “No.” With an overwhelming majority of LP professionals believing the most important factor is to treat each and every suspect with the utmost respect. While we may not agree with the decisions they made, they are still employees and above all human beings. LP professionals carry the weight of the “truth-seeker” stigma whether they subscribe to the respectful practice of the interrogation process or not.

“We should all remember that both the LP professional and the employee started out on the same team, until they choose not to be on our team any more,” said a vice president of loss prevention for a specialty clothing retailer based in North Carolina. “Then we have the opportunity to impact their lives in a positive way; to possibly be that turning point that sends them out to start making different decisions. We could help be that turning point for them to start making positive decisions that change their lives.”

As in any profession, there are a few bad examples that taint the practice, which is why most interviewees agreed on the massive importance of certifying industry knowledge by using common standards.

“I take this part of my job very seriously since it affects another person’s life,” said Melissa Mitchell, director of loss prevention and inventory control for LifeWay Christian Stores. “It is not just the legalities of how you get a confession; it is the idea of being willing to walk away if you can’t get the confession fair and square. That is integrity defined as what you do when nobody is looking.”

Please visit our blog at www.LPportal.com to comment about the opinions and perspectives raised here or additional elements of this debate. Stay tuned for part two that will discuss performance measures for investigators and controls to keep interrogation teams honest. ■



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