

Man in the Mirror

Strategies for Interviewing Trained Investigators

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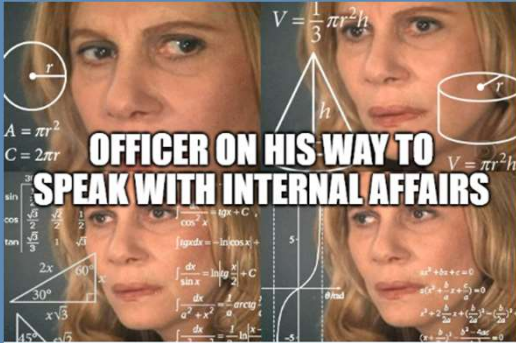
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“Inherent Resistance”



The Challenge.



2

learning objectives

- Explain the concept of "inherent resistance" how ways to overcome it
- Identify the common legal and practical hurdles present when conducting IA interviews
- Learn foundational elements of strategic rapport development
- Identify maladaptive behaviors and how they impact communication
- Learn the fundamentals of the Participatory Interview method
- Explain how leveraging the WZ method can assist in establishing credibility and rapport



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Man in the Mirror Concept

- Remember that You are **AS IMPORTANT** as the person you are sitting across from
- Have you **"Fixed Your Face"**?
- Could that person be you?
 - If so, how would you want to be treated?
- What does that person already know about you and how you will conduct your interview?
 - Will they be prepared to counter all the interviewing tools you have in your toolbox?
 - Will they be offended if you try to utilize a particular interviewing technique with them?



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IA Legal and Best Practice Considerations



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Everyone
Loves the
Internal Affairs
Investigator

- In reality, Internal Affairs has the opportunity to make a positive impact for officers of the department and build rapport with the community.
- When there is an efficient, ethical, and professional IA division in place, the department and the officers alike benefit significantly
- Many times IA can review complaints can be remedied quickly when there is no merit to a complaint

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Everyone Loves the Internal Affairs Investigator

Lengthy delay undermines public trust and confidence that the agency is efficient and is taking speedy action to remedy police misconduct, thereby increasing public cynicism about law enforcement taking care of its own.

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Chain of Command

Investigations should, where reasonable and feasible, be conducted by an Internal Affairs unit that **reports directly to the agency head** or designated immediate subordinate deputy or assistant agency head.

Some agencies that treat internal affairs as a type of investigation that when it “pops up” the agency will assign someone to “look into it”.

Other agencies have an investigator assigned to Internal Affairs duties along with several other duties within the department.

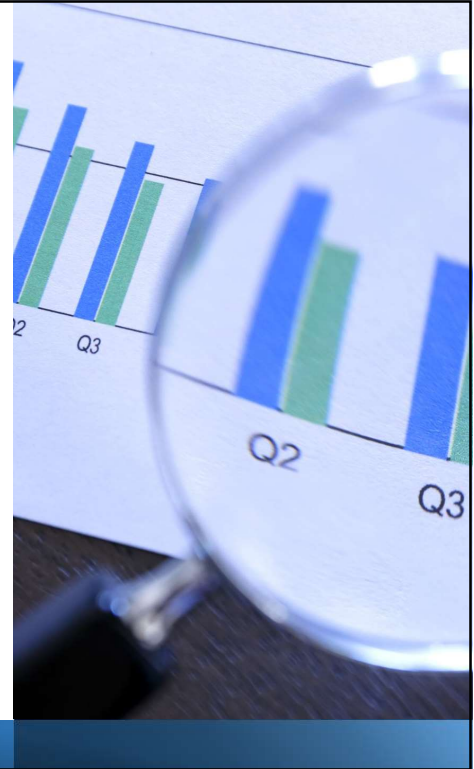
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Conducting Investigations

It is common practice to hold an administrative investigation in a *suspended state* during a pending criminal investigation based on the same facts.

It is often the desire of the prosecutor that the investigations be consecutive. out of concern that compelled statements in the administrative investigation, if not handled carefully, may taint the criminal investigation.

However, consecutive investigations can prejudice the administrative investigation. The time delay has a negative impact on the memory and availability of witnesses. [cops-p164-pub.pdf \(usdoj.gov\)](#)



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Garrity Warnings

Garrity warnings are an advisory that puts a government employee on notice that they must cooperate in an investigative interview under threat of disciplinary action for failure to cooperate.

[HR/LR Policy 2105-3 - Tennesen and Garrity Warnings \(mn.gov\)](#)



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Garrity Warnings

The warnings include notice to the employee that information obtained during the compelled interview, and any evidence resulting from the information provided, cannot be used against him/her in any subsequent criminal proceedings.

“Garrity warnings” arise out of the Fifth Amendment right under the federal Constitution against self-incrimination. In *Garrity v. New Jersey*, 385 U.S. 493 (1967),

[HR/LR Policy 2105-3 - Tennesen and Garrity Warnings \(mn.gov\)](#)

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Weingarten Rules

Among the rights under Weingarten is the right of union-represented employees, upon request, to have their representative present during an interview that the employee reasonably believes could lead to discipline.

[Weingarten Rights | National Labor Relations Board \(nlrb.gov\)](#)

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Not covered by Weingarten Rules

- Meetings about disciplinary decisions that have already been made.
- If an employer has made a final decision on a disciplinary action, a meeting with an employee to inform them of that decision is not considered investigatory.
- Part of an investigation of another employee's conduct or performance.

[Weingarten Rights | National Labor Relations Board \(nlrb.gov\)](https://www.nlrb.gov)

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Loudermill Rights

Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (U.S. 1985), decided by the U.S. supreme court in 1985.

Most public employees have property interest in their jobs, and are therefore allowed due process rights if they are fired.

Loudermill rights include a written or oral notice regarding why they are being fired.

Specific evidence to any charges against them must be given to them and a pre-termination hearing is also to be given where the employee can respond to the charges made against him or her.

[Loudermill Rights Law and Legal Definition | USLegal, Inc.](https://www.uslegal.com)

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Additional Considerations

Garrity: The department is limited in scope of what can be asked by an interviewer during the investigative interview. The questions must be specific and designed to focus on the officer's job.

Weingarten: The interviewee can request the purpose and nature of the interview be disclosed prior to answering questions

[Microsoft PowerPoint - WEINGARTEN GARRITY AND LOUDERMILL powerpoint.ppt \(njsoa.org\)](#)

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Additional Considerations

Peace Officers Act:

50 ILCS 725/3.2- No officer shall be subjected to interrogation without first being informed in writing of the nature of the investigation.

The information shall be sufficient as to reasonably apprise the officer of the nature of the investigation

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50 ILCS 705/6.1

Automatic decertification of full-time and part-time law enforcement officers

- (a) The Board must review law enforcement officer conduct and records to ensure that no law enforcement officer is certified or provided a valid waiver if that law enforcement officer has been convicted of, found guilty of, entered a plea of guilty to, or entered a plea of nolo contendere to, a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony.
- The Board must also ensure that no law enforcement officer is certified or provided a valid waiver if that law enforcement officer has been convicted of, found guilty of, or entered a plea of guilty to, on or after January 1, 2022

[50 ILCS 705/6.1 \(ilga.gov\)](#)

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50 ILCS 705/6.1

Automatic decertification of full-time and part-time law enforcement officers

(a-1)

For purposes of this Section, a person is "convicted of, or entered a plea of guilty to, plea of nolo contendere to, found guilty of" regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon.

This includes sentences of supervision, conditional discharge, or first offender probation, or any similar disposition provided for by law.

[705/6.1 \(ilga.gov\)](#)

[50 ILCS](#)

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First things first. Rapport.



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Starts and Ends with Rapport

I love asking employees if they have a minute... scares them every time



someecards user card



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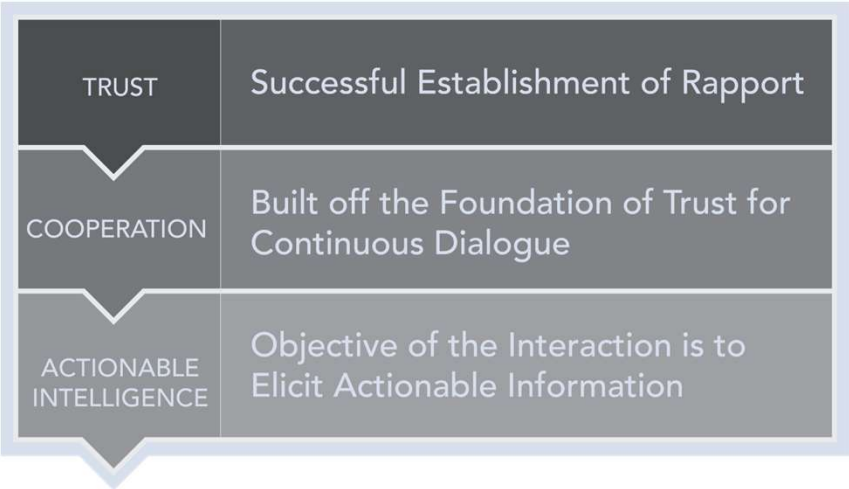
Not just what you say...but HOW you say it.



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Rapport

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- Significance of the ORBIT research findings
- Largest field-based study focused on rapport during investigative interviews
- Universal impact across all venues

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FOUNDATIONS OF RAPPORT



- Honesty
- Empathy
- Autonomy
- Adaptability

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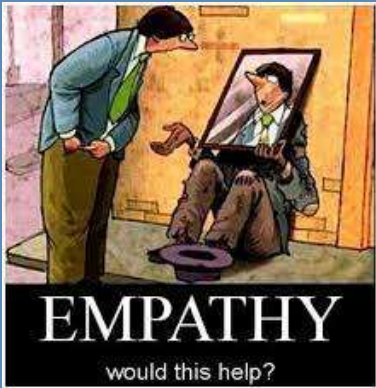
HONESTY

- Transparency
- Credibility
- Respect



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EMPATHY



- Supportive environment
- Trust
- Cooperation



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AUTONOMY

- *Make decisions*
- *Take action*
- *Trust & mutual respect*

**Quarantine week 4:
I cut it myself**



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ADAPTABILITY



- *Flexible*
- *Mutual understanding*
- *Collaboration*



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responding v. reacting

What's the difference?



Your significant other says...

I don't like the tone you are using
with me right now.



Your coworker says...


I can't believe how great this diet is. I can't stop losing weight! You really should try it!



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Your mother says...


I really thought you'd be married by now.



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Your significant other says...

I told you that I already looked there and I don't see it!
I'm not an idiot.



33

Your coworker says...

This place would just collapse if it wasn't for me.



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Your significant other says...

You spent how much?
Do you really even
need one of those?

35

Your Spouse says...

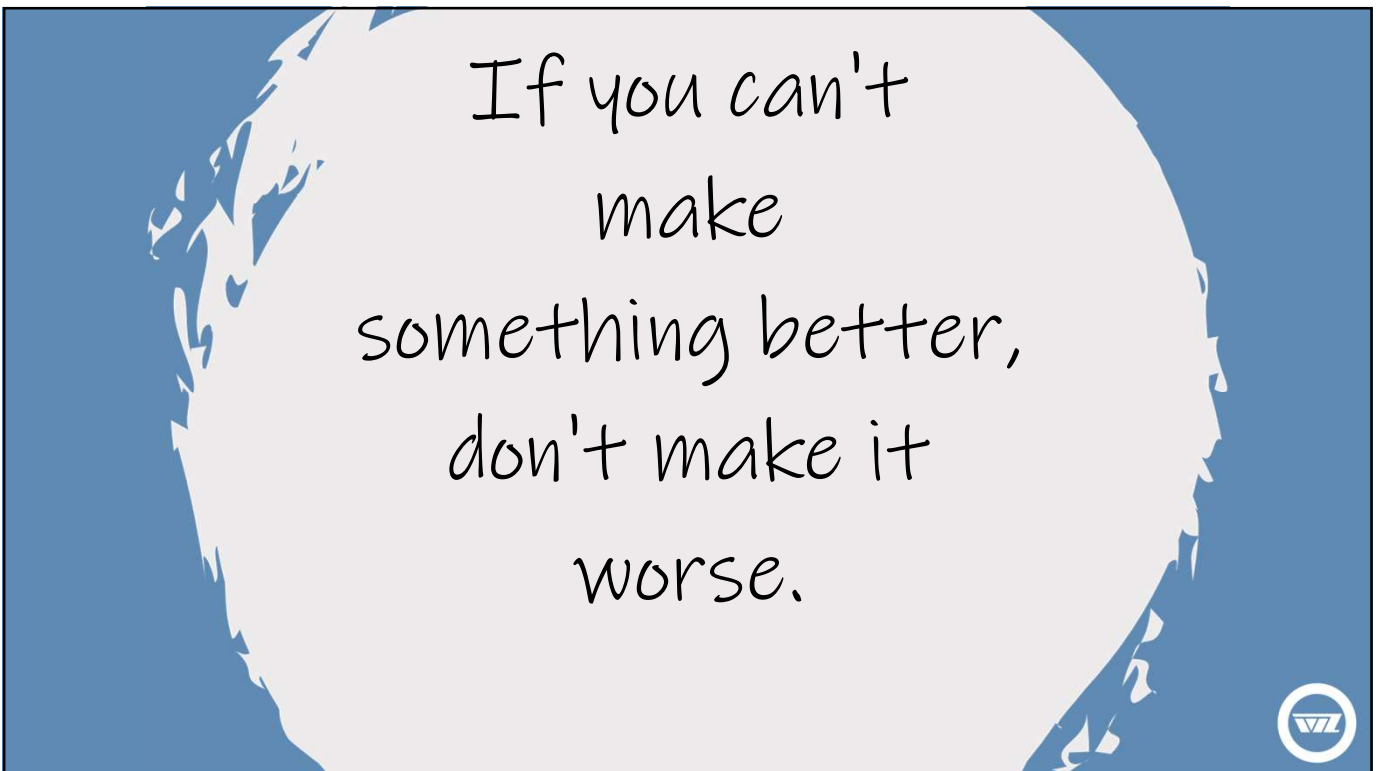
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**So, now
what?**

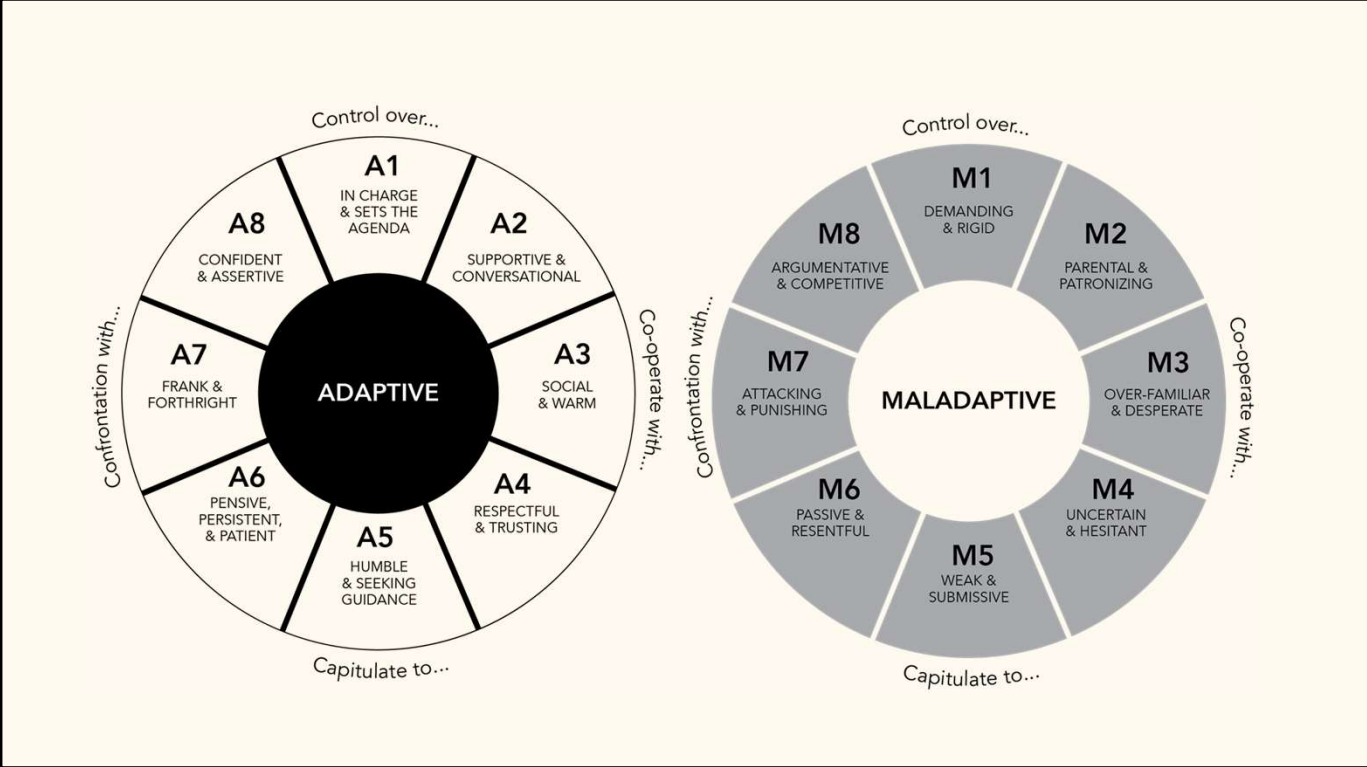
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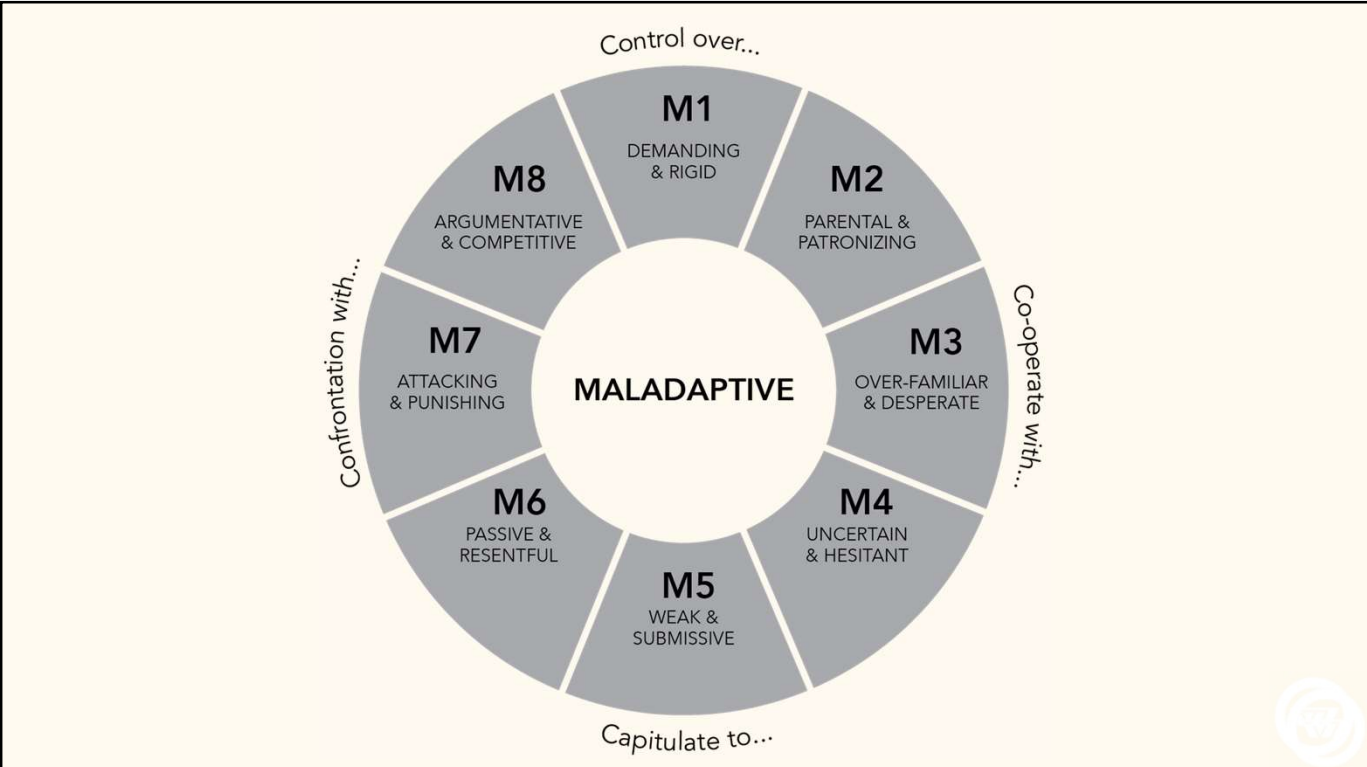
If you can't
make
something better,
don't make it
worse.



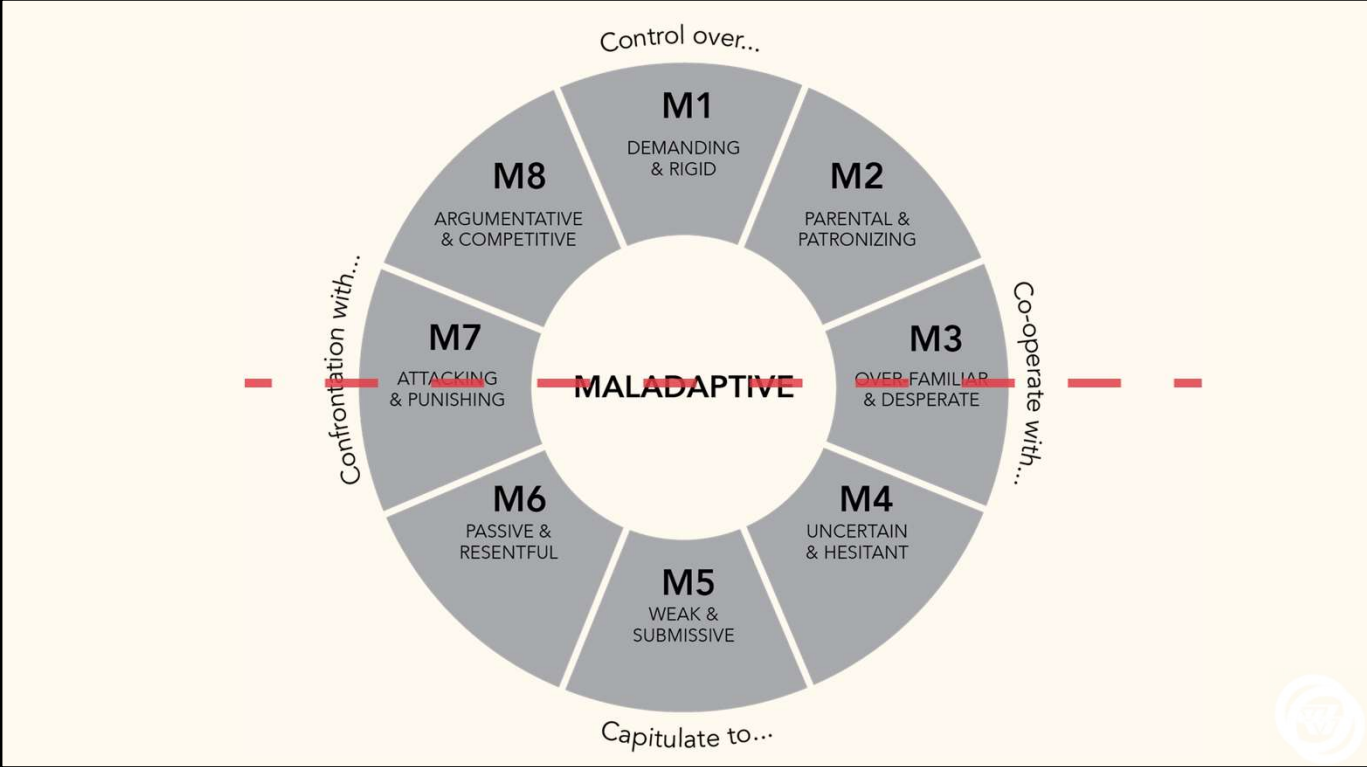
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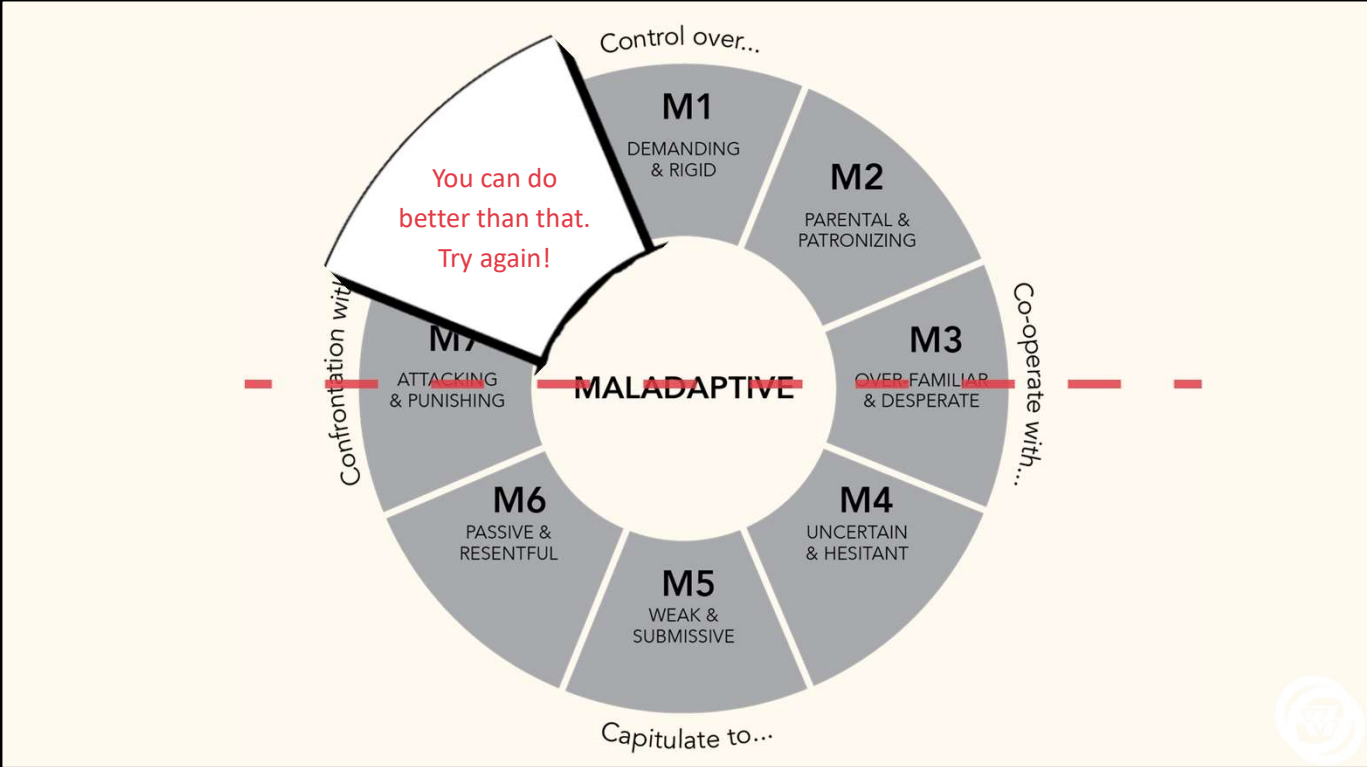
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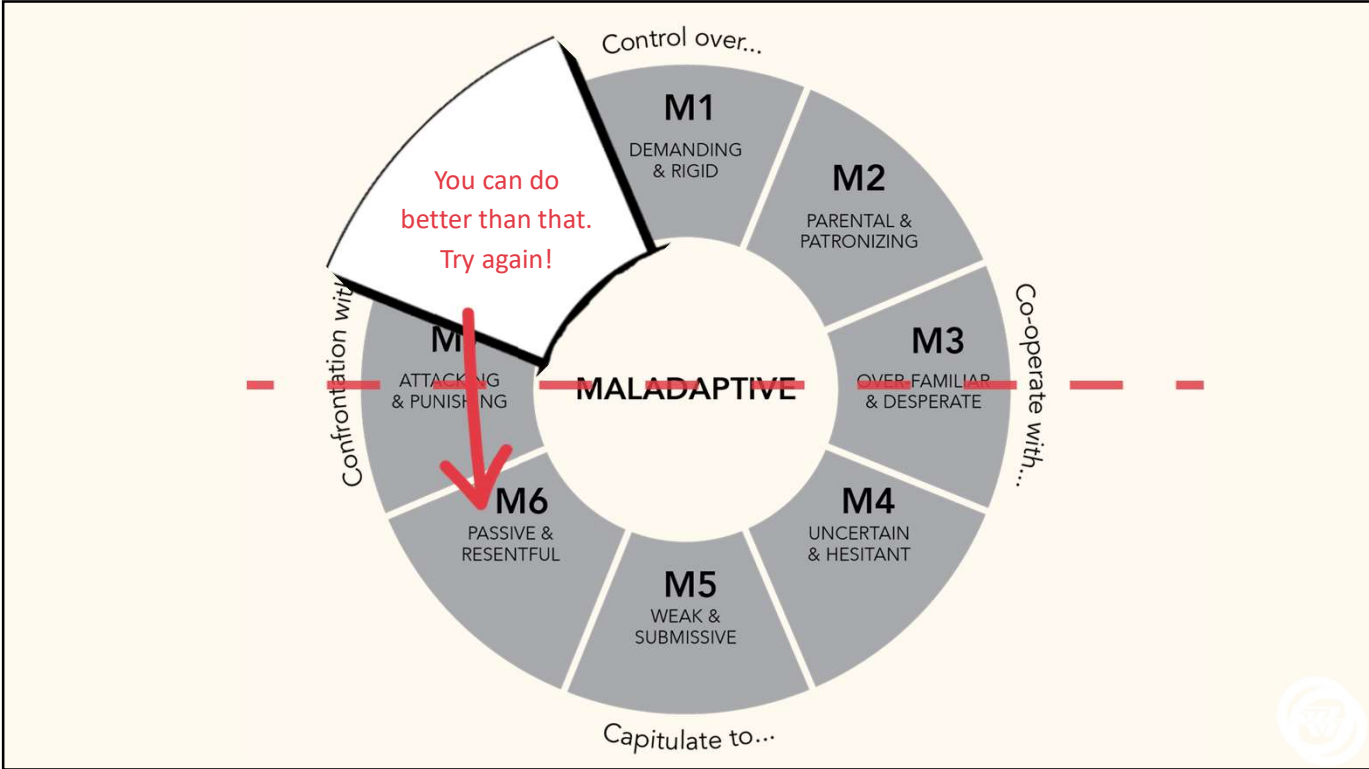
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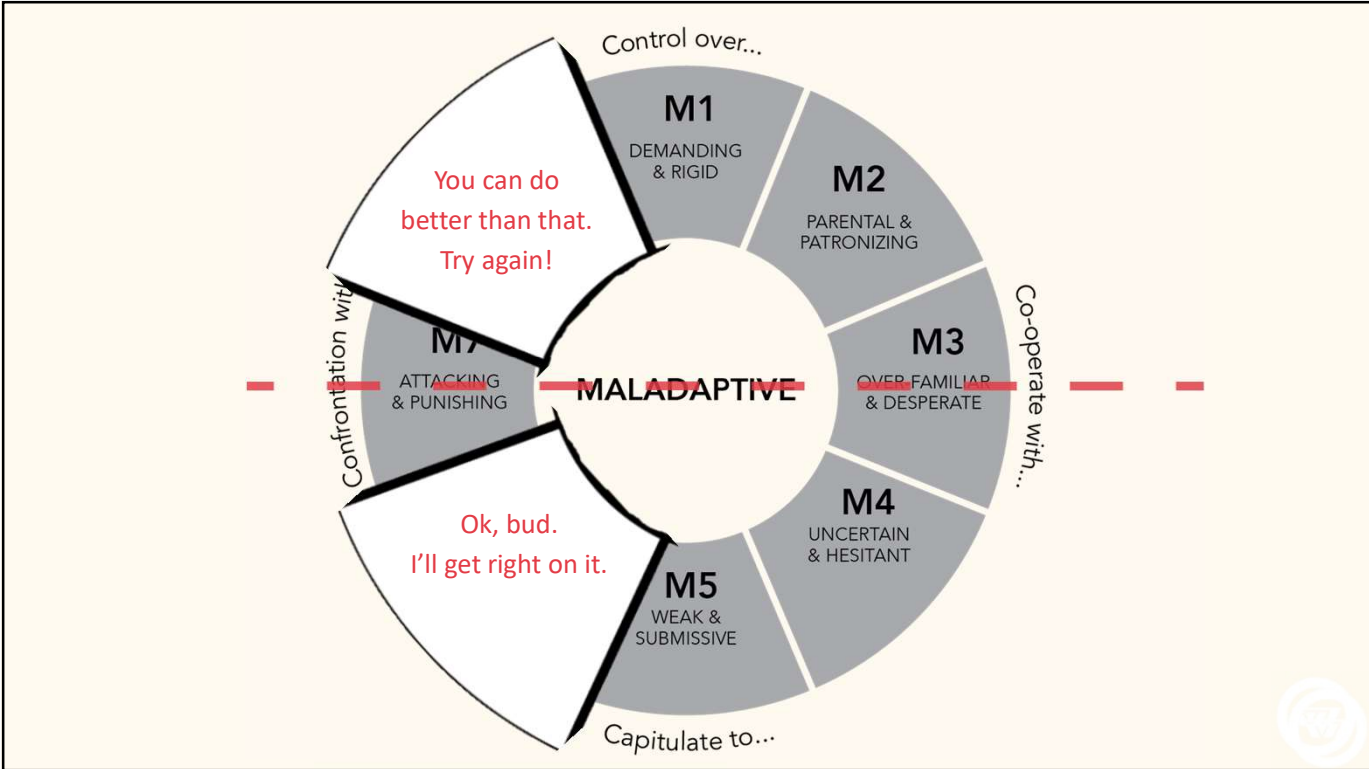
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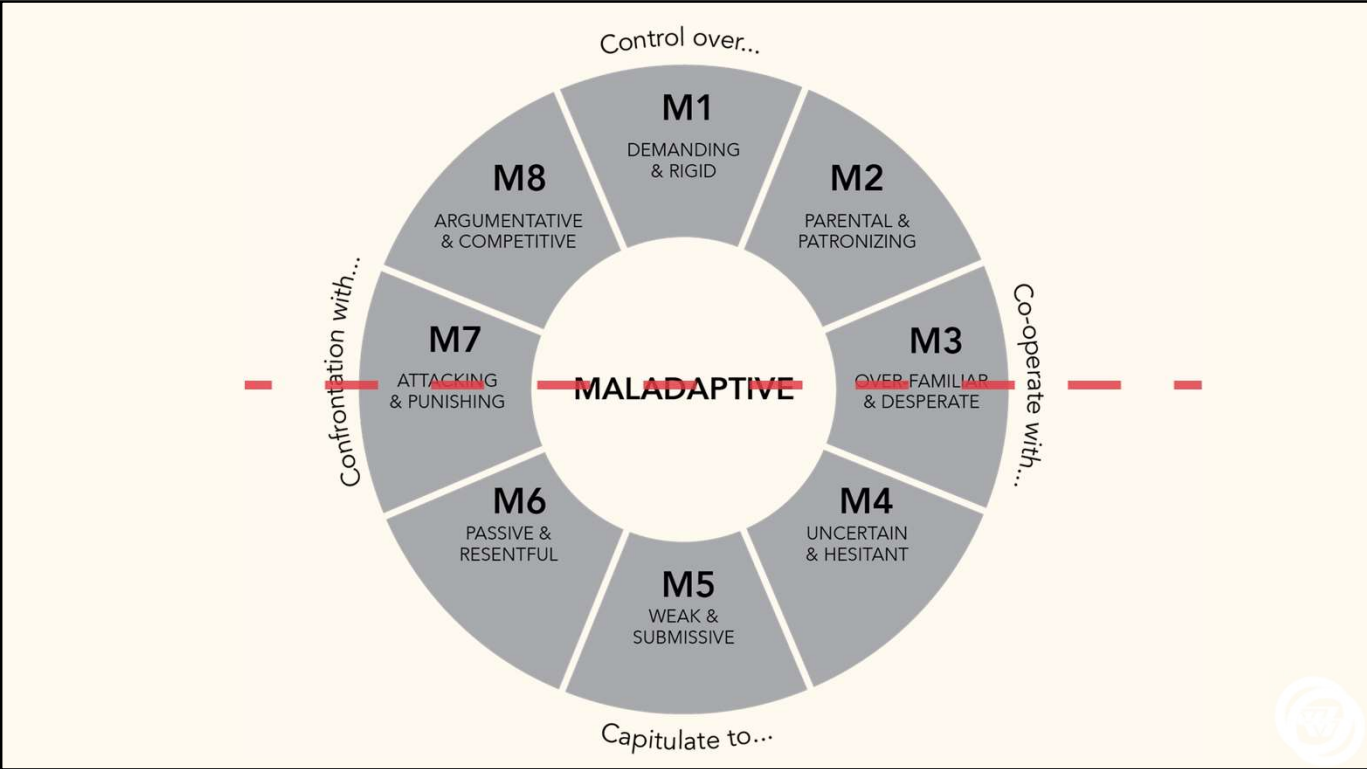
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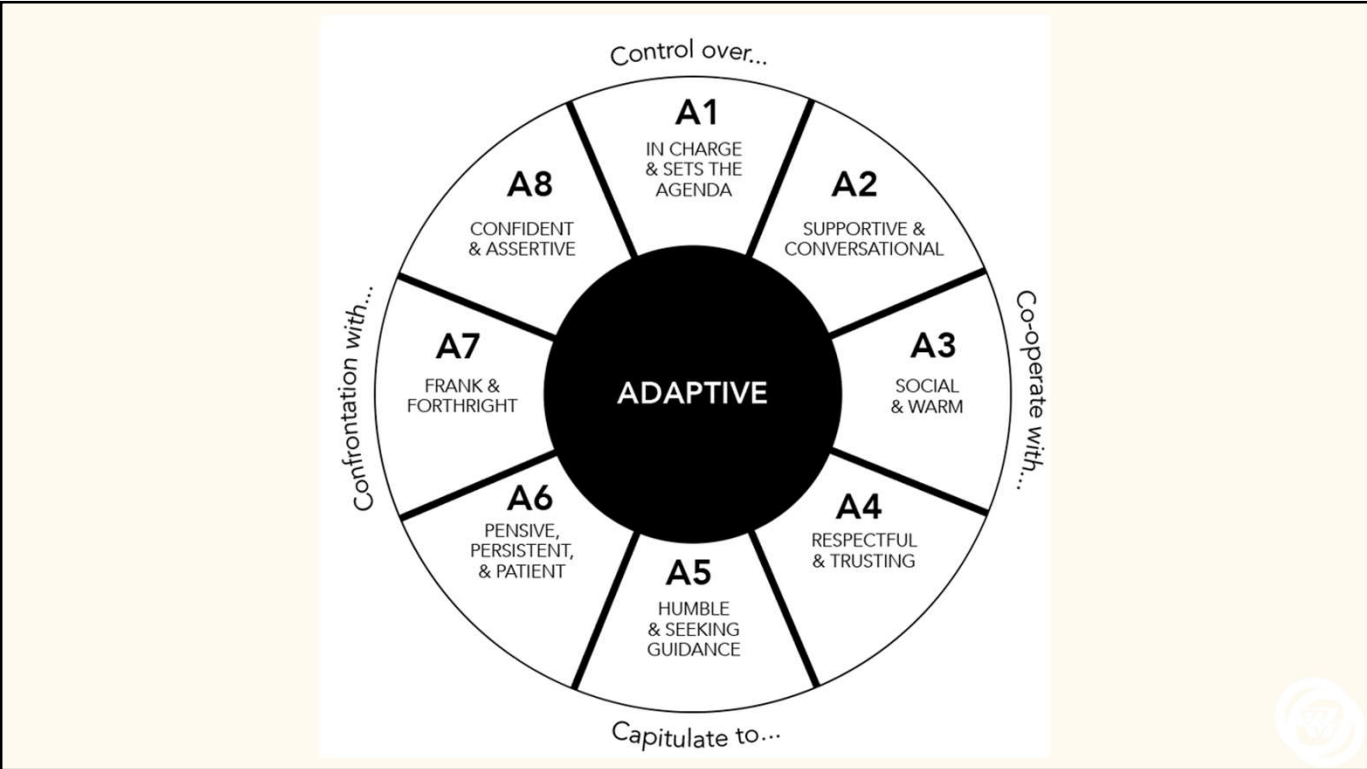
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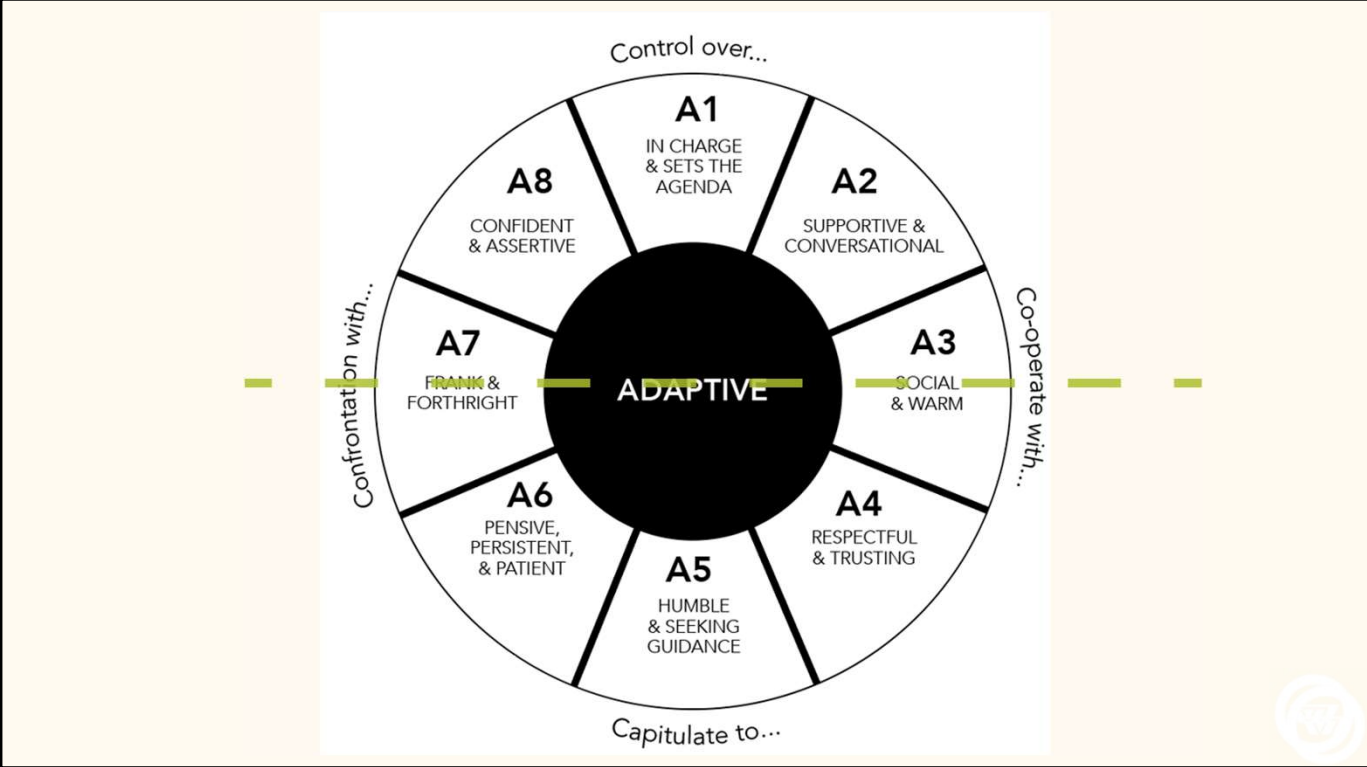
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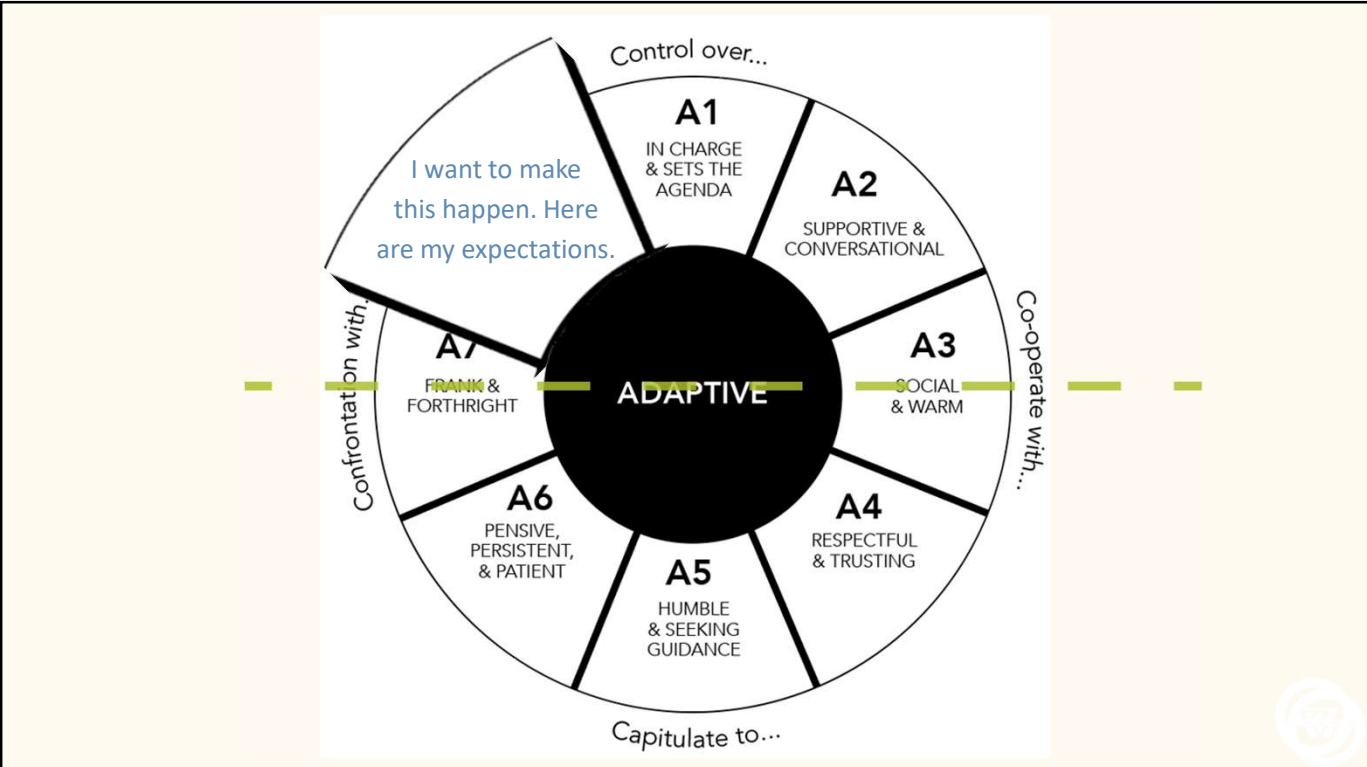
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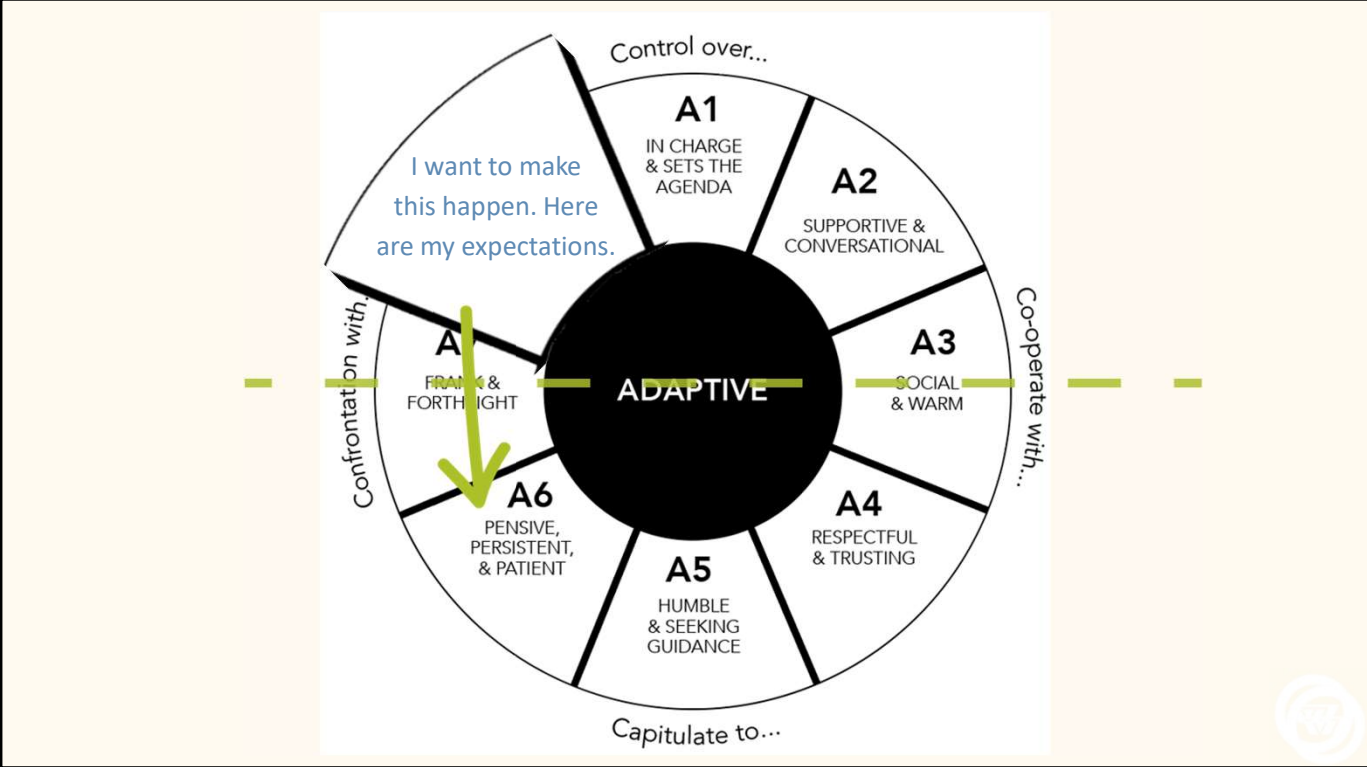
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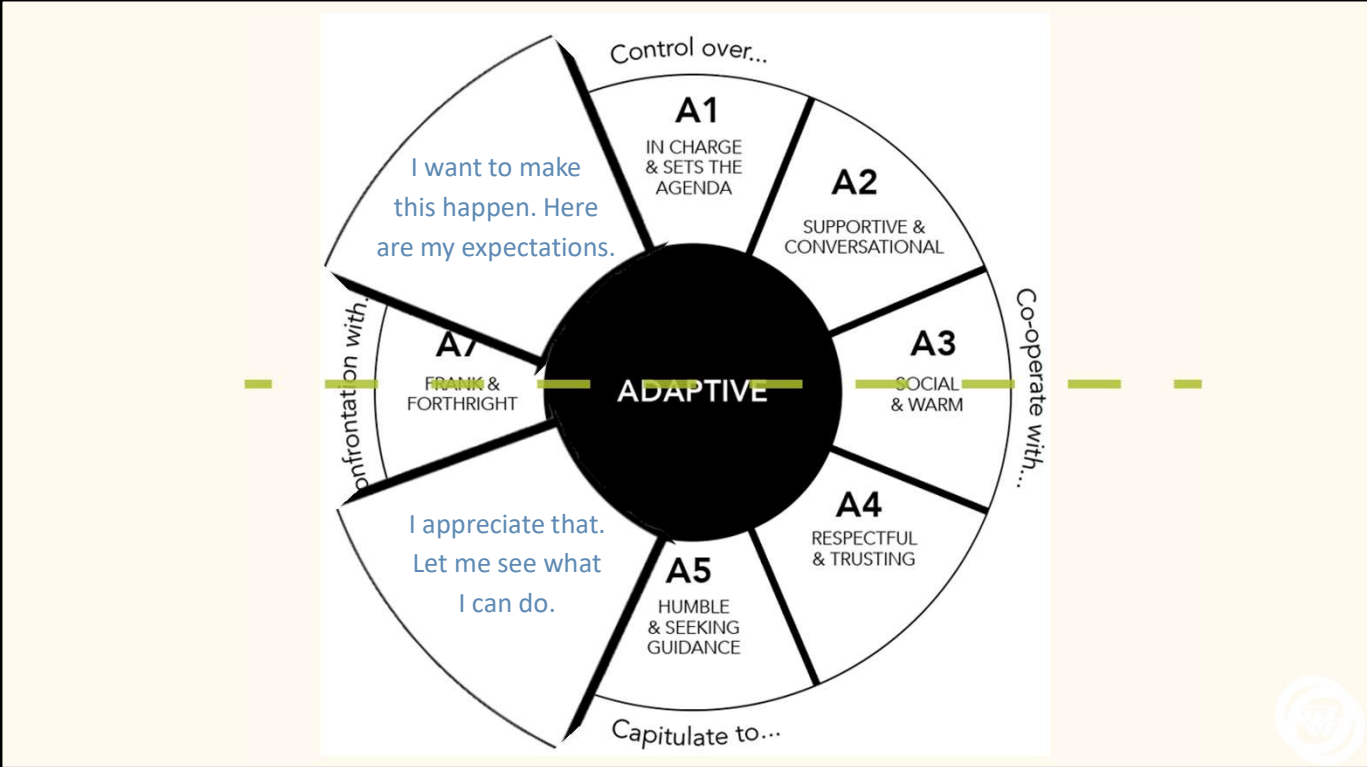
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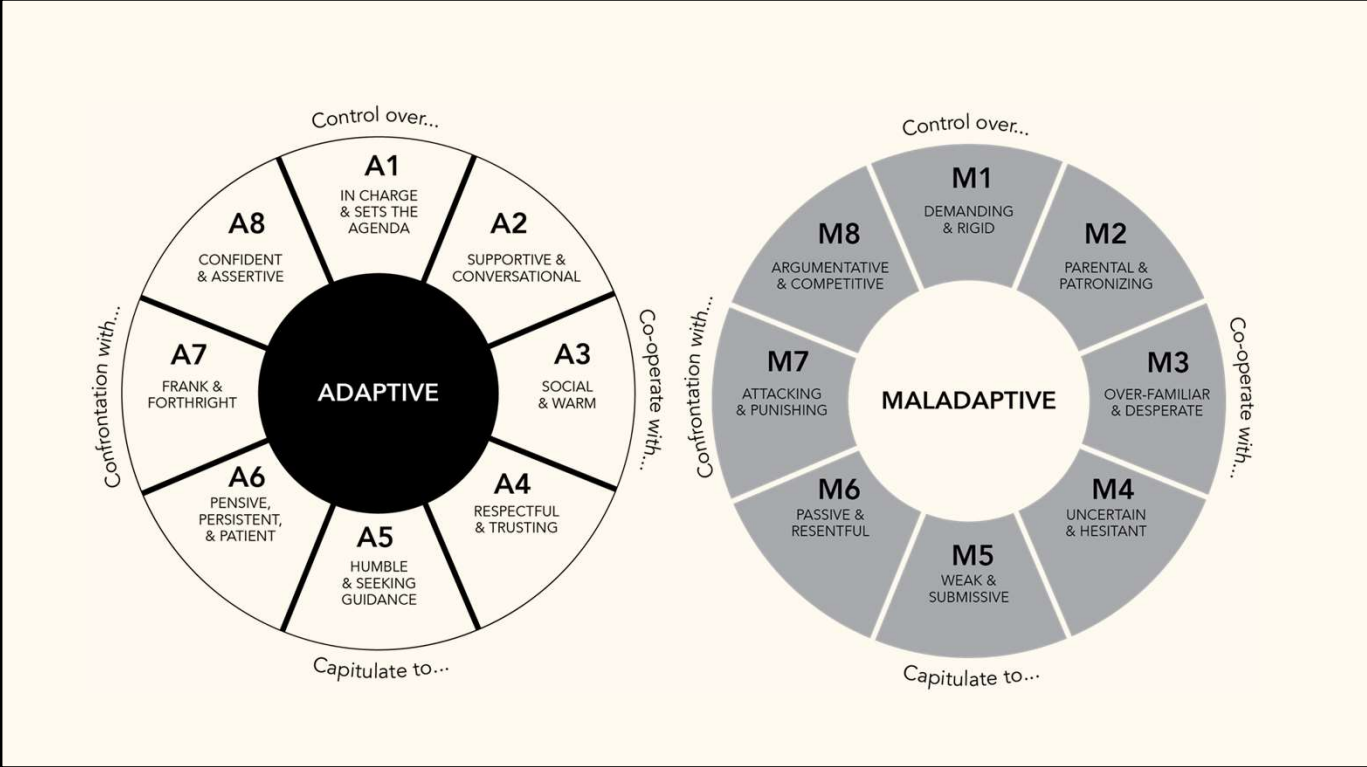
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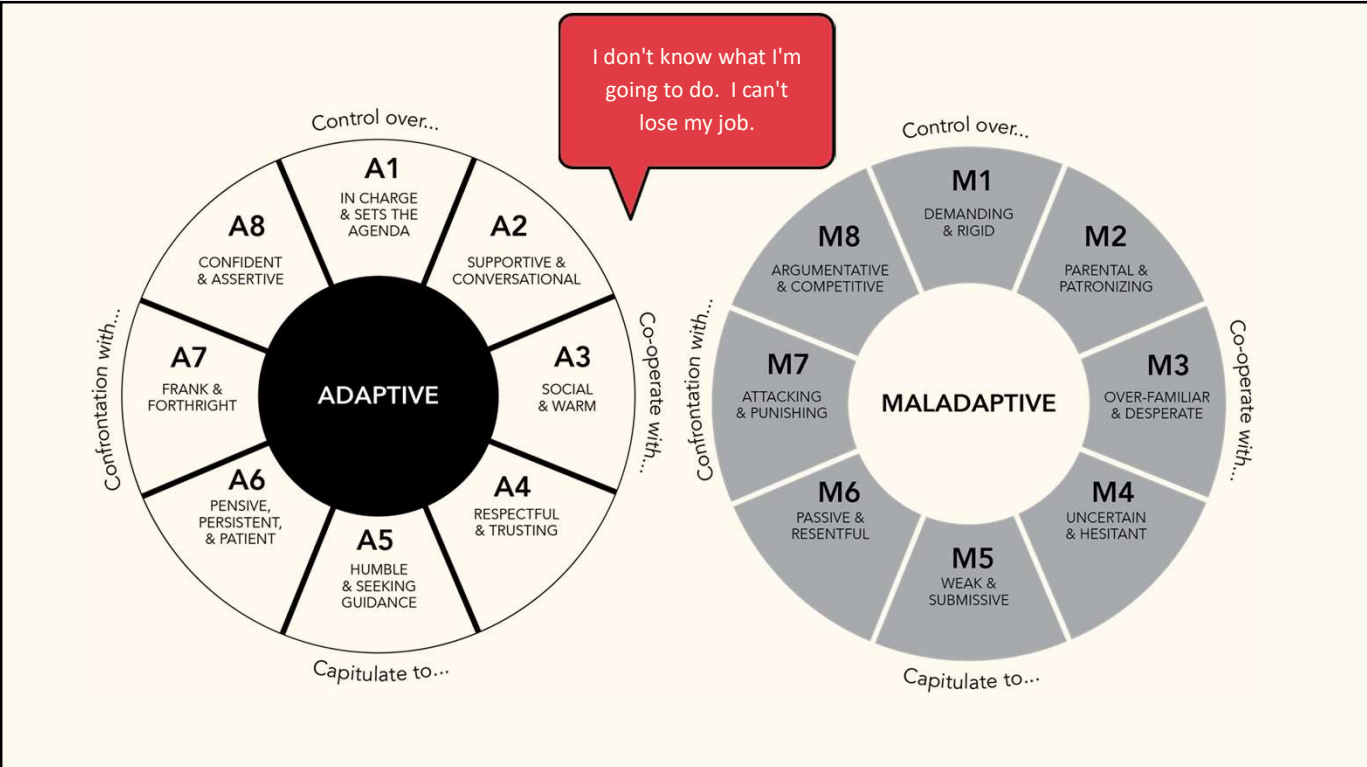
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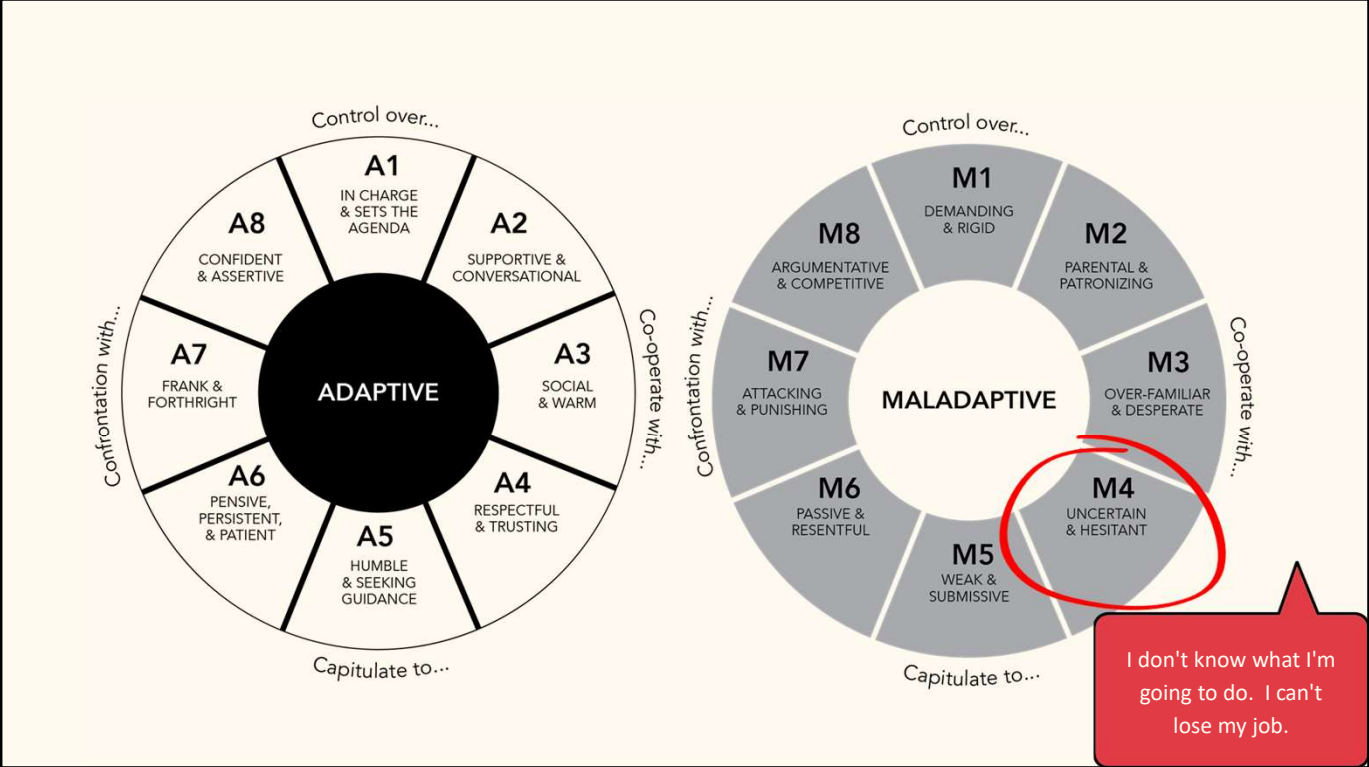
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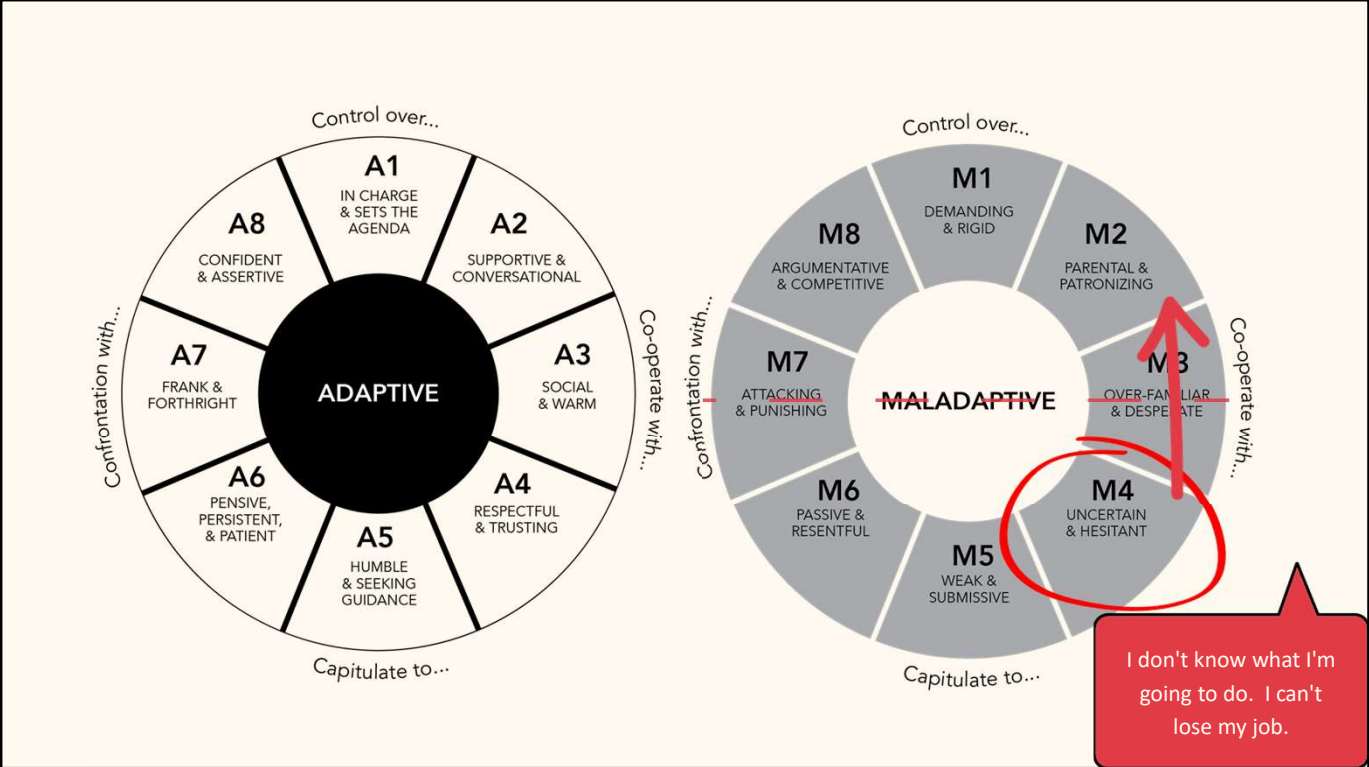
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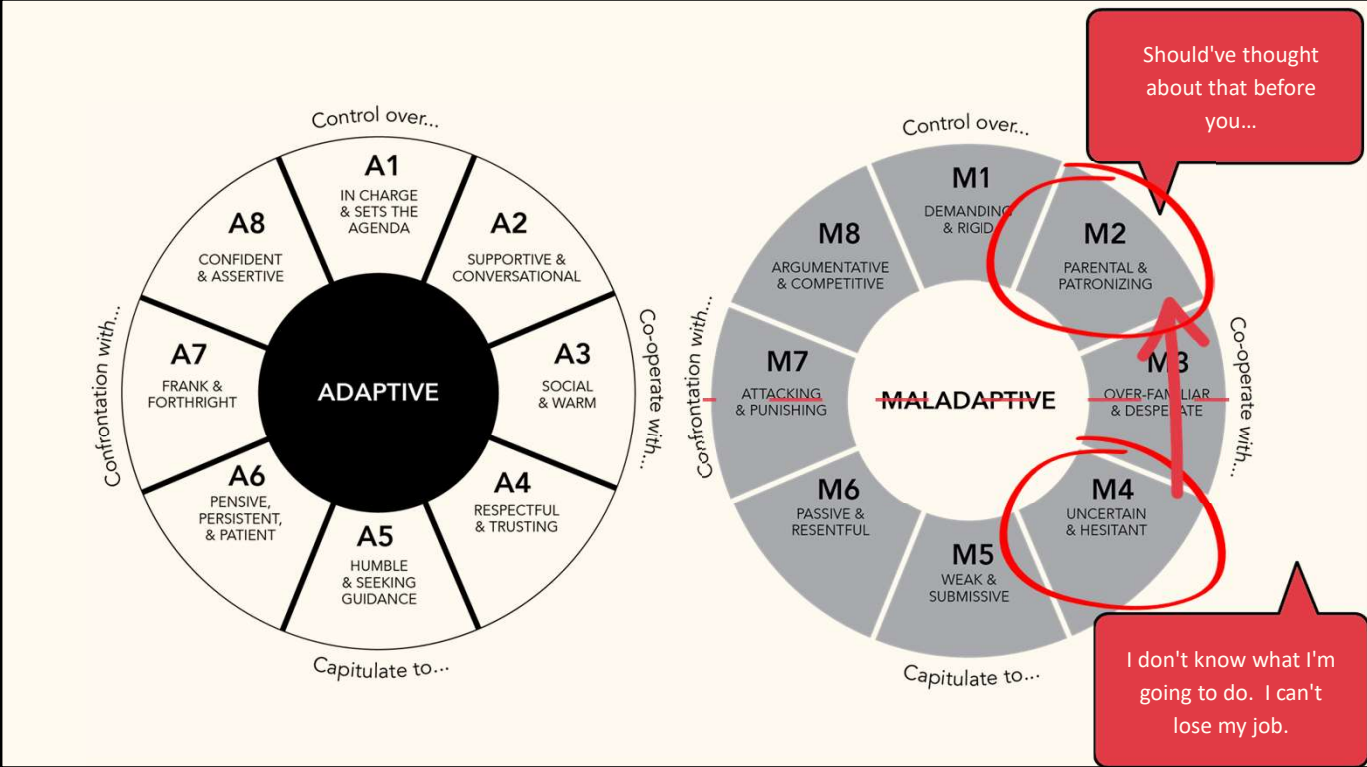
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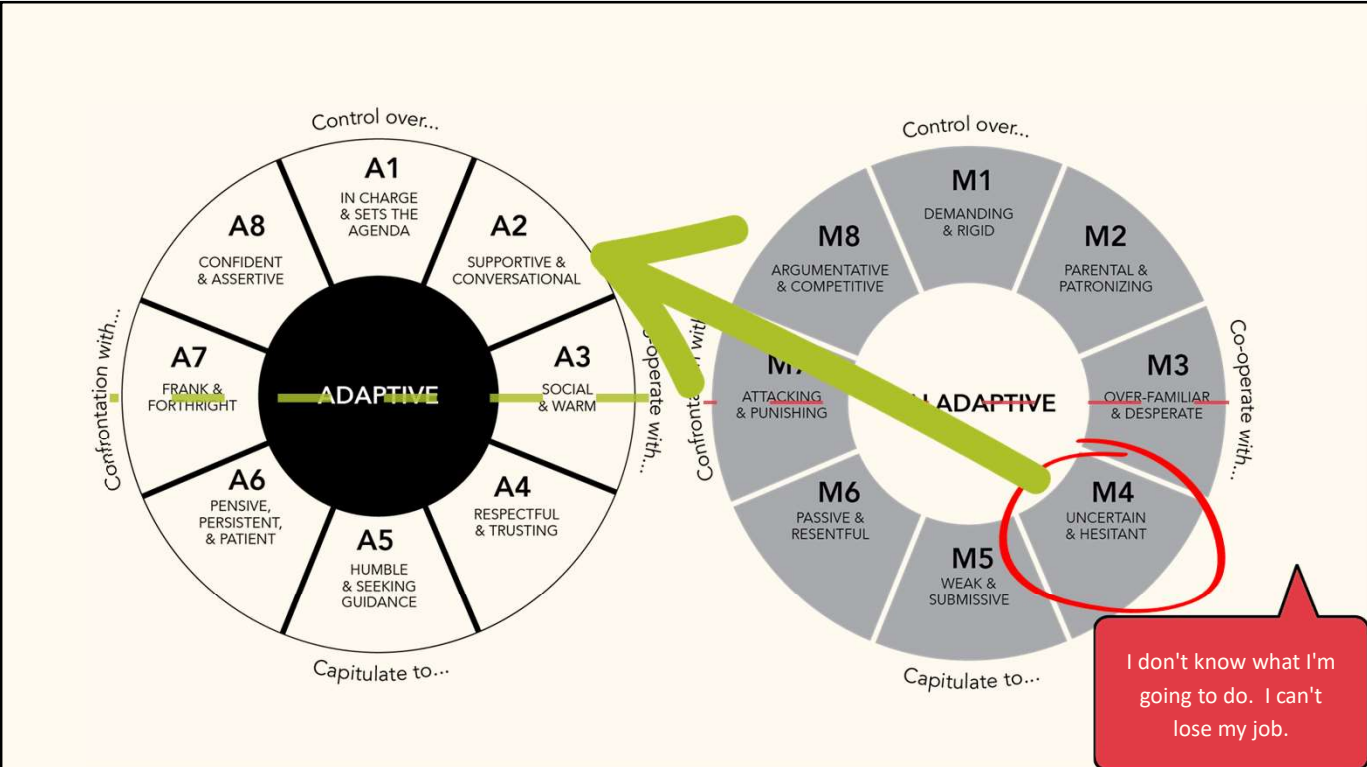
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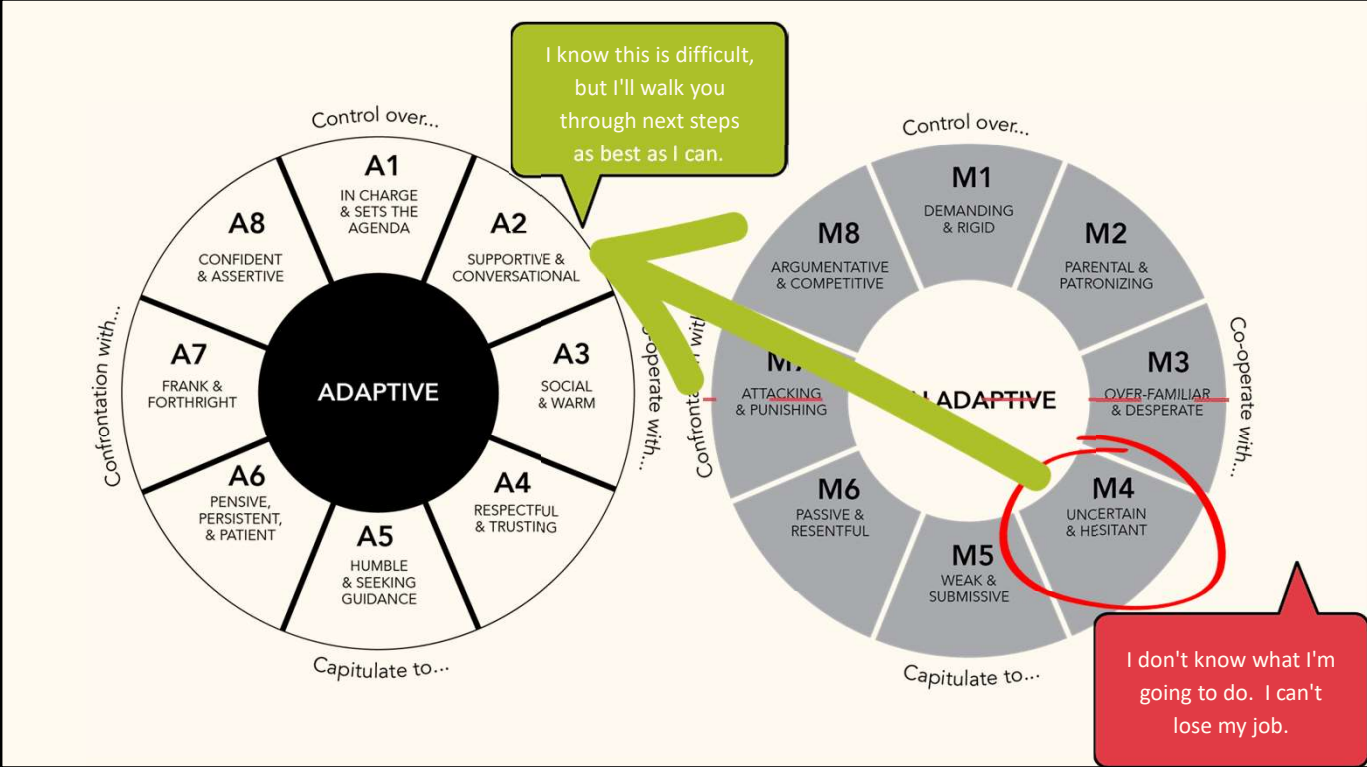
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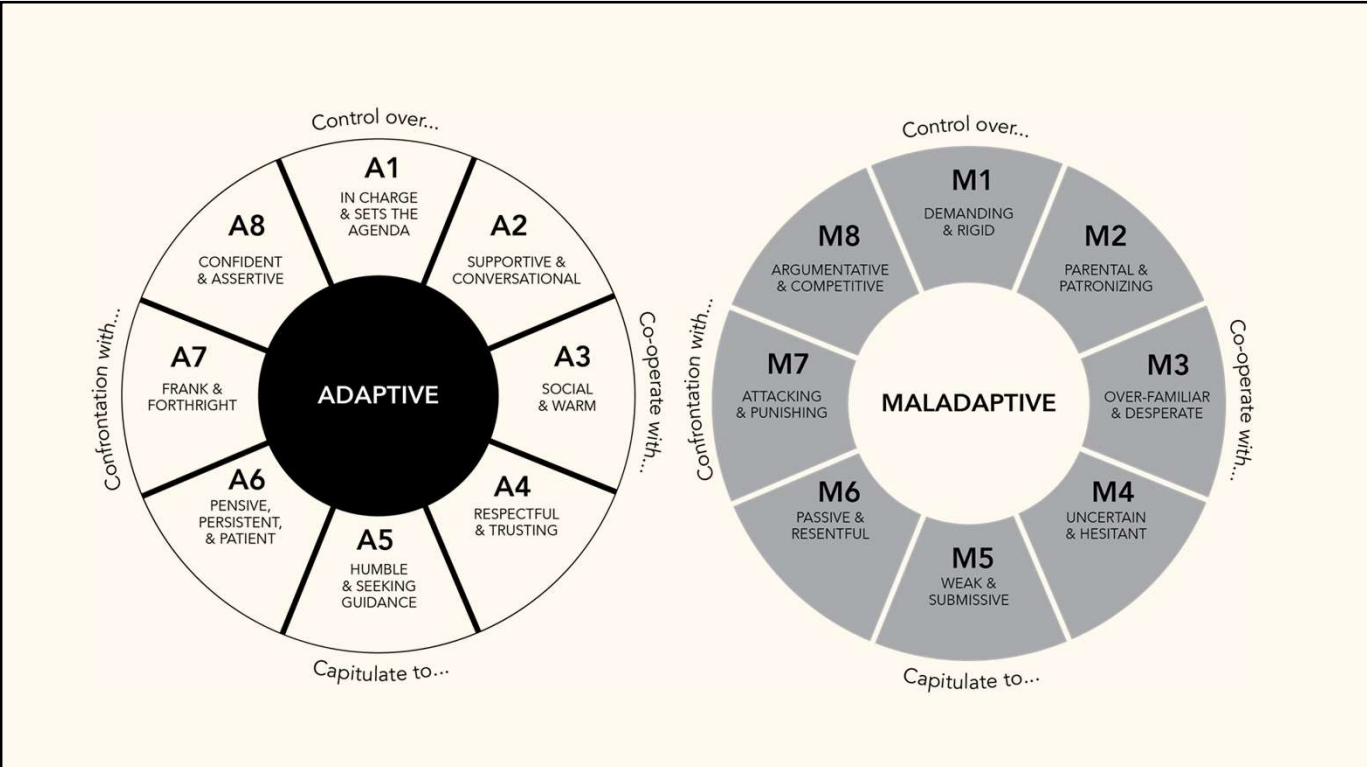
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COMMUNICATION 101

ADAPTIVE BEHAVIORAL RESPONSES

Increase productive communication



MALADAPTIVE BEHAVIORAL RESPONSES

Decrease quantity and quality of information



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MIRROR, MIRROR...



ADAPTIVE COMMUNICATION
-
ENCOURAGES ADAPTIVE RESPONSES



MALADAPTIVE COMMUNICATION
-
ENCOURAGES MALADAPTIVE RESPONSES

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Maladaptive Communication and Emotions



Threats trigger "flight or fight"



"Fight or flight" increases irrational, emotional REACTIONS and decreases rational, intentional RESPONSES



HIGH emotions = LOW quality of response



Time to "rewire"




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A Boss says...


Per my last email, I thought that this was very clear.



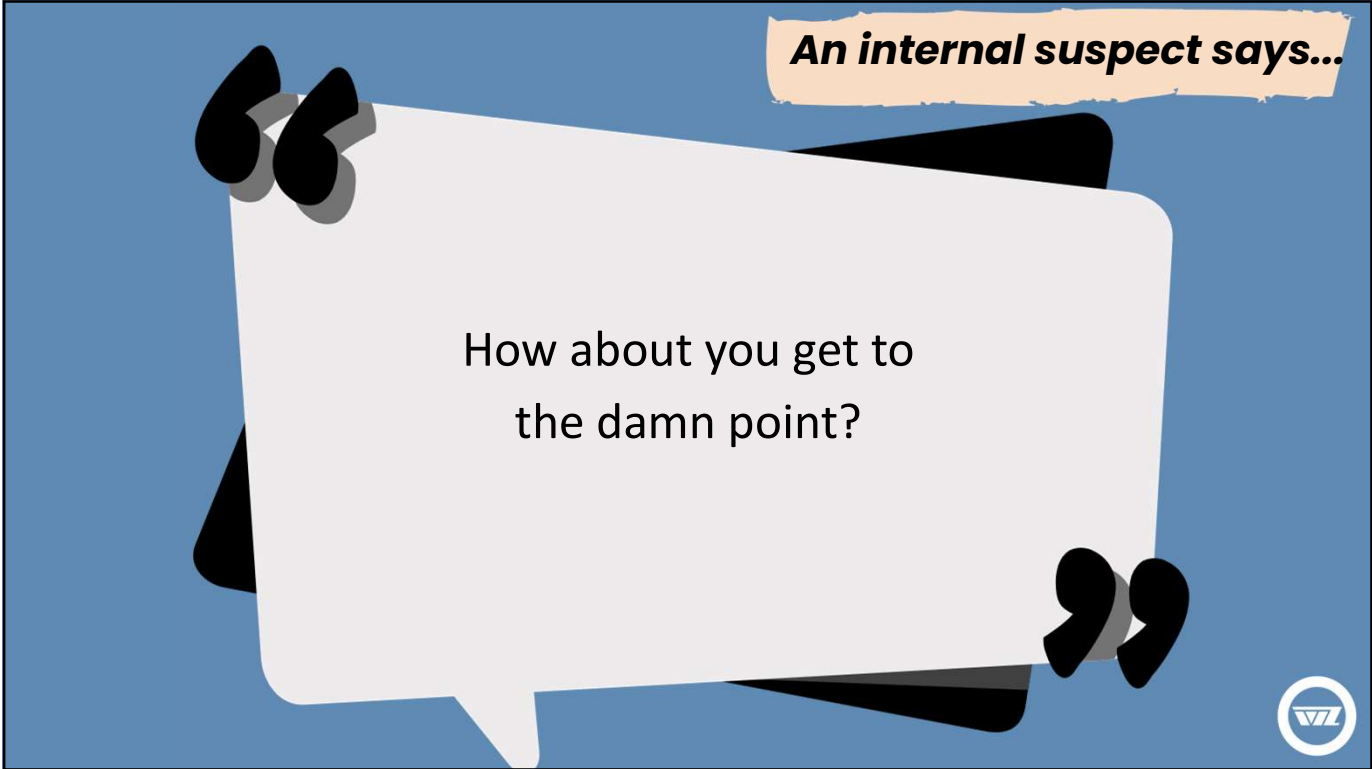
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Your significant other says...

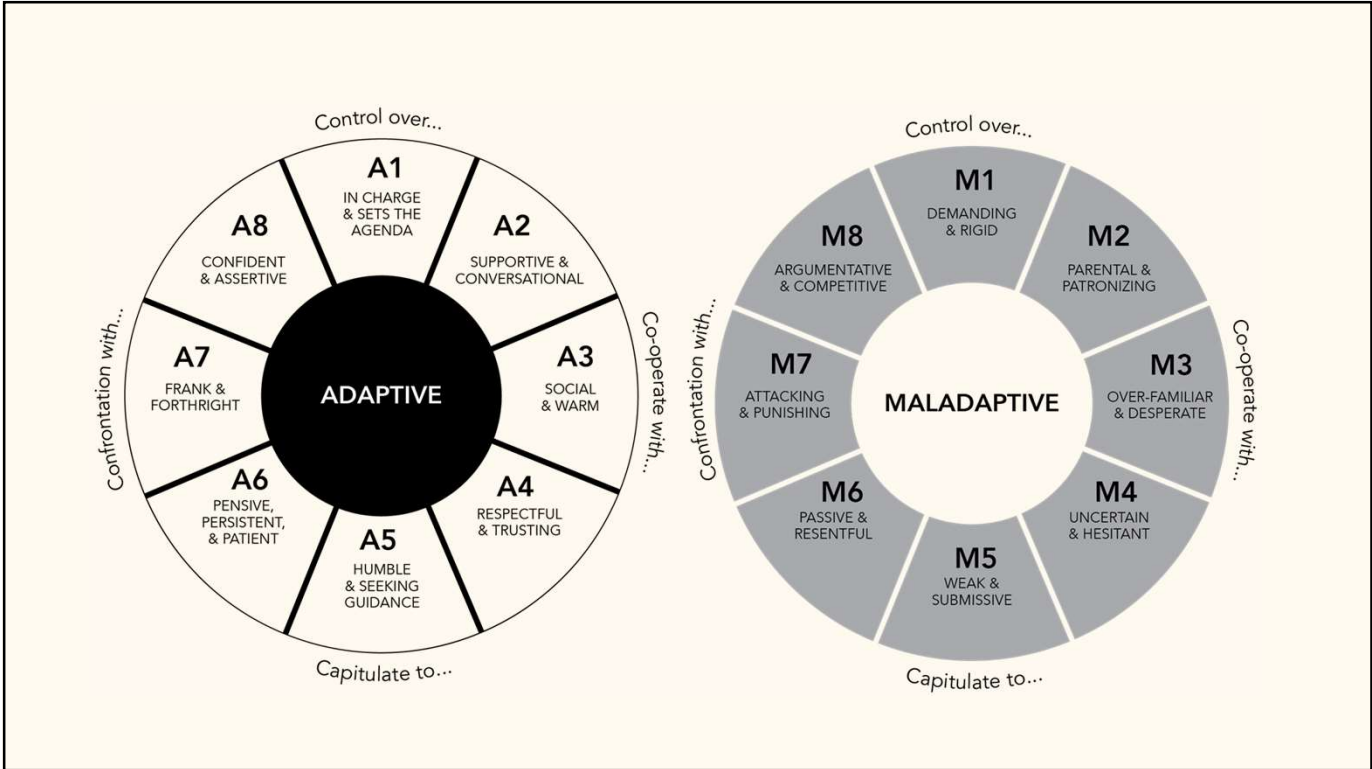
My mother is going to be staying with us for the week. I assume you don't have an issue with that.



64



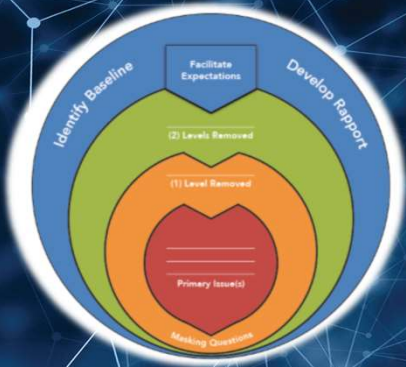
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The Participatory Method

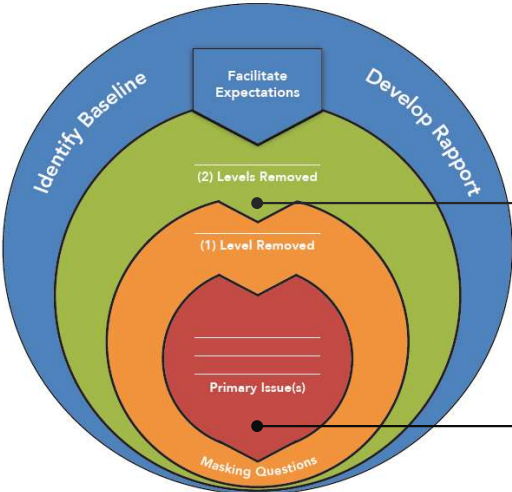
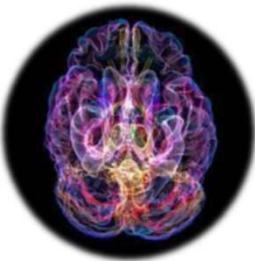
IA Interviews



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Topic of Least Resistance

Topic of Most Resistance

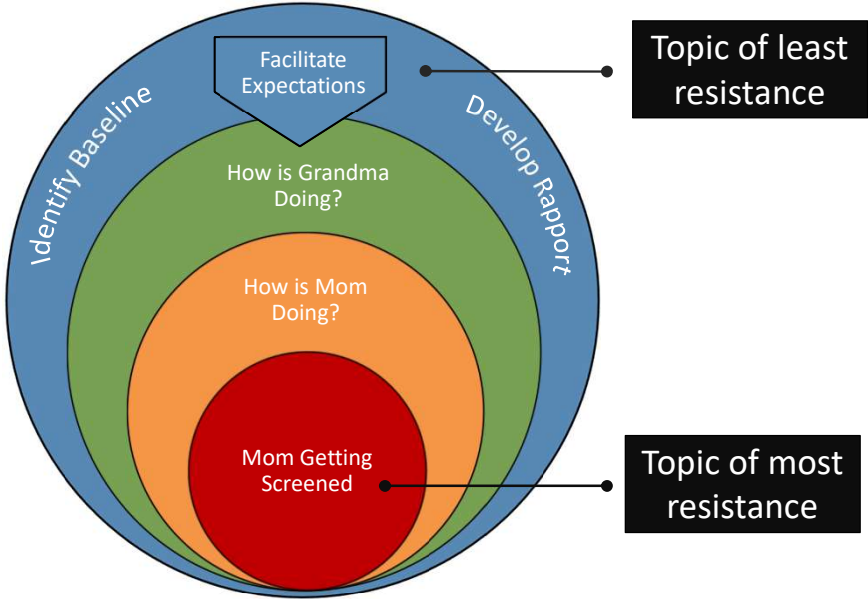
PARTICIPATORY METHOD

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Strategize the Interview



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The Uncommon Nature of “Common Sense”

Issue:

You are notified by your IT liaison that the laptop issued to new police recruit, Tom, has flagged for visiting inappropriate adult websites.



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Laptop Issue

We see you accessed an inappropriate website on your device.

Which one is telling the truth??

Somebody else must've been on my laptop

~~*Somebody else must've been on my laptop*~~


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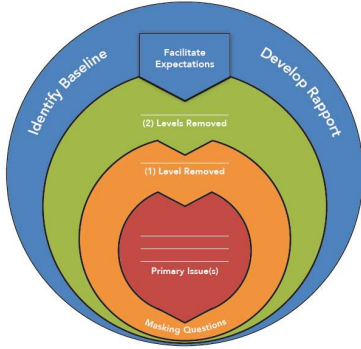
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Explanations? Excuses? Intent?

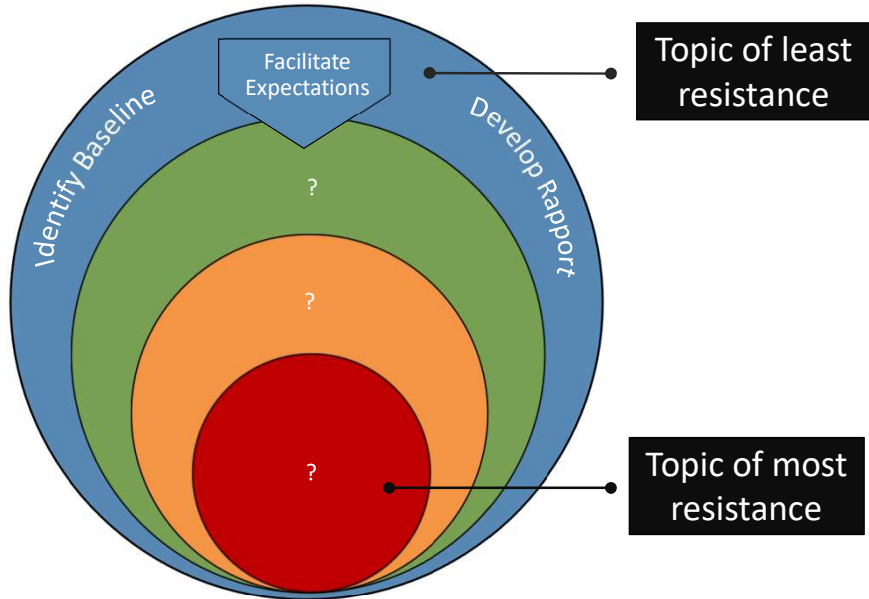
- *Somebody else had access to my laptop*
- *It was a virus*
- *I was on my own time*
- *Didn't know I wasn't allowed to do that*
- *I was doing an investigation*
- *Must've been my roommate*





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Prepare-Strategize the Interview



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Finding the Primary Issue - Identify Excuses/Explanations

- Reaction if directly confronted
- Plausible deniability
- Possible true reason
- Reasonable explanations

Possible Subject Explanations	Elimination Questions
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

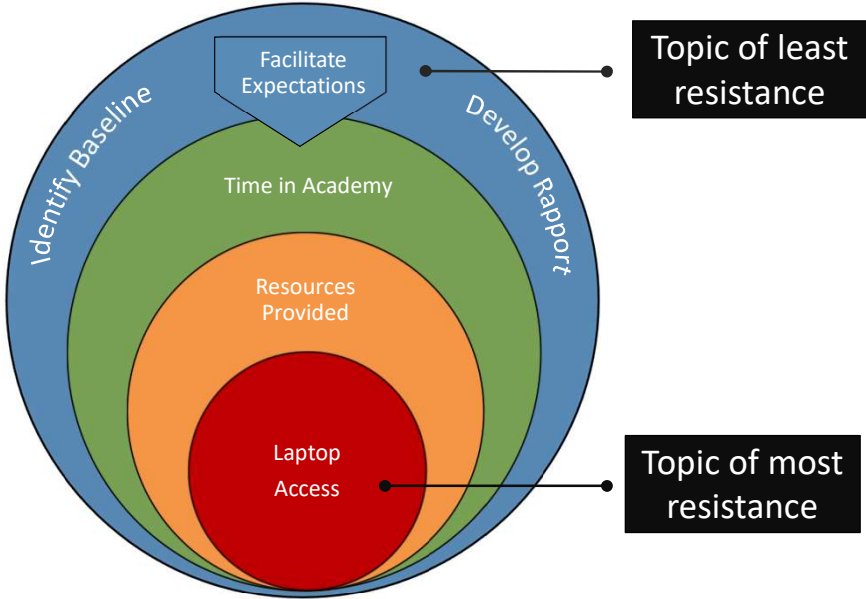
"I was told it was okay."
"Everybody does it."
"I didn't know it was wrong."
"I wasn't even there."
"He's trying to blame me."
"They're out to get me."

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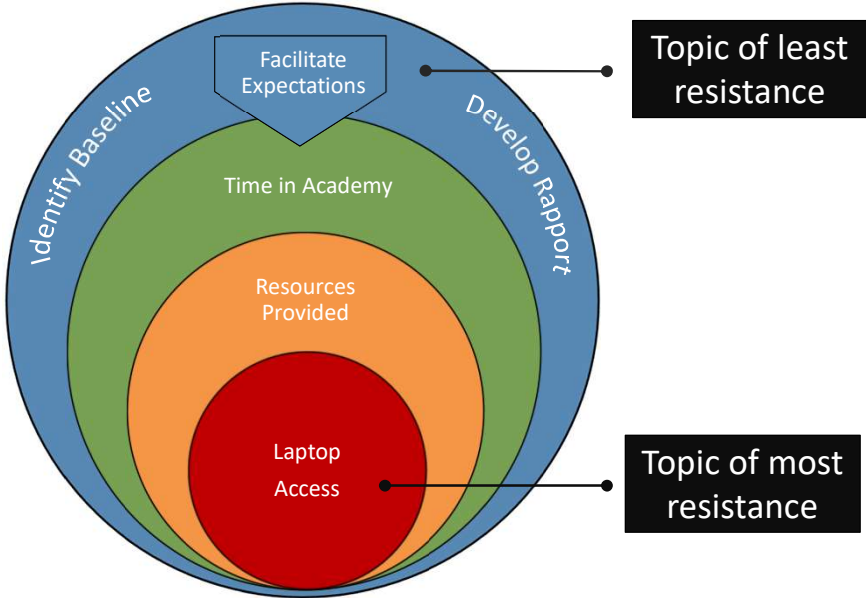
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Prepare-Strategize the Interview



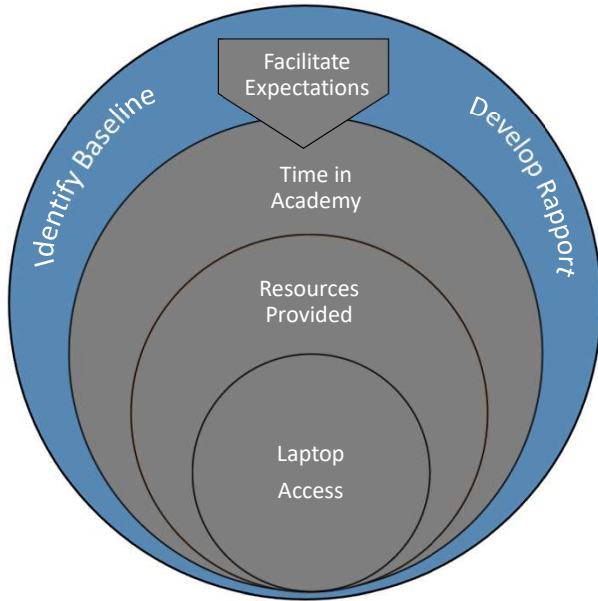
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Prepare-Strategize the Interview



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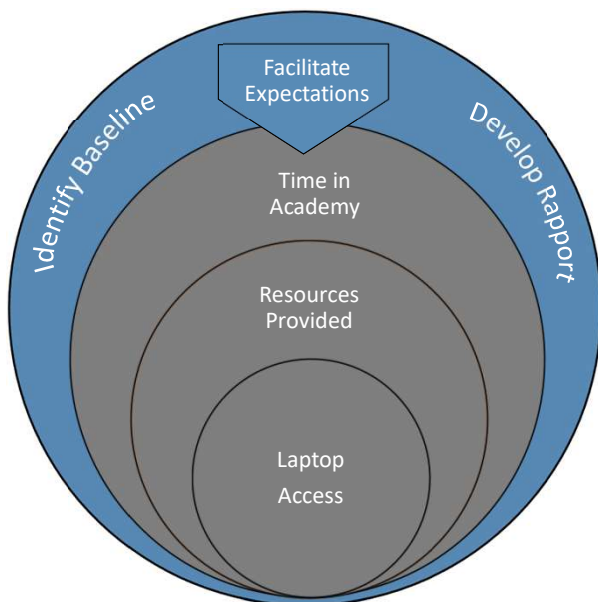
Verify Background / Develop Rapport



- Establish a behavioral norm
- Shows credibility in your investigation
- *“Tell me a little about yourself”*
- *“How long have you worked here for?”*
- *“What types of positions have you held?”*

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Facilitate Expectations

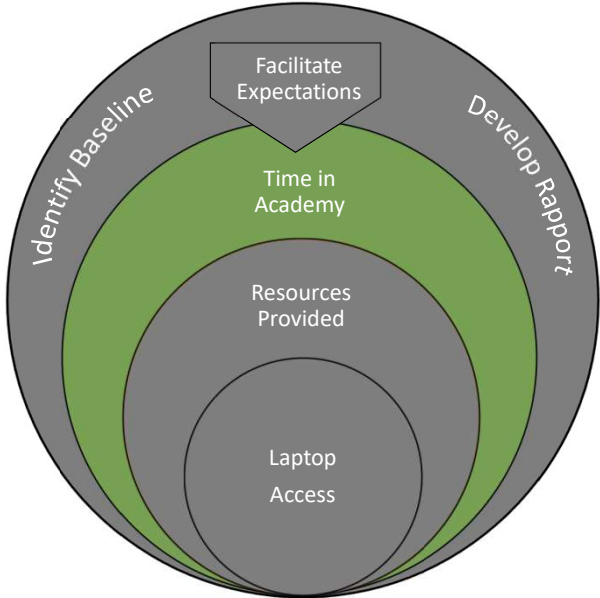


- *“We are looking to gain an understanding of some operations guidelines and the efficiencies...”*

“Walk me through your role with the organization”

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General Benefits

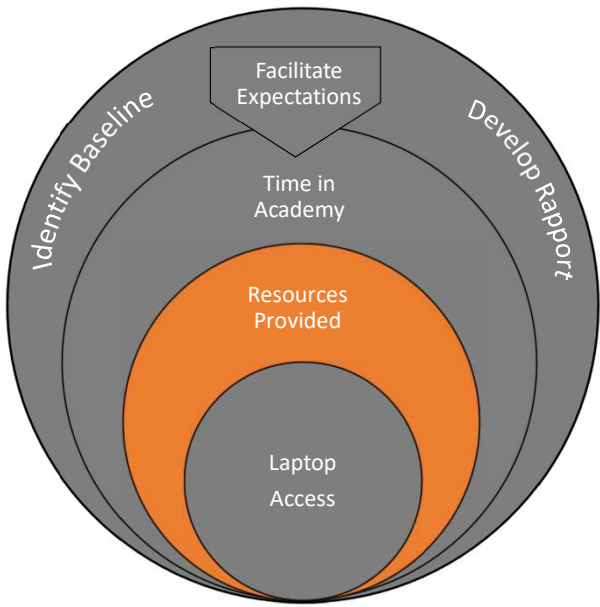


- *“Talk to me about how the academy is going so far.”*
- *“What are some of the biggest challenges?”*
- *“What do you do when you’re not in class/PT?”*

“Have the resources you’ve been provided been helpful?”

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Resources Used

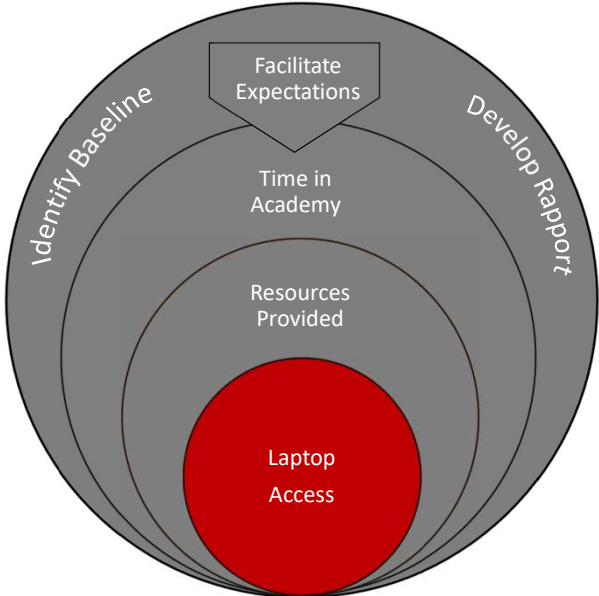


- *Vehicle...*
- *Phone...*
- *Gear...*

Laptop...

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Laptop Access

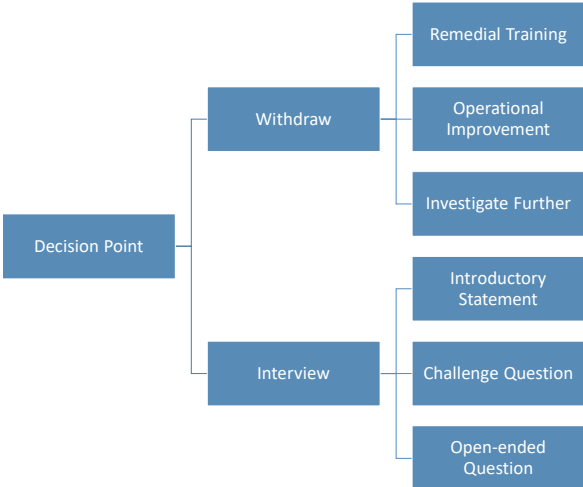
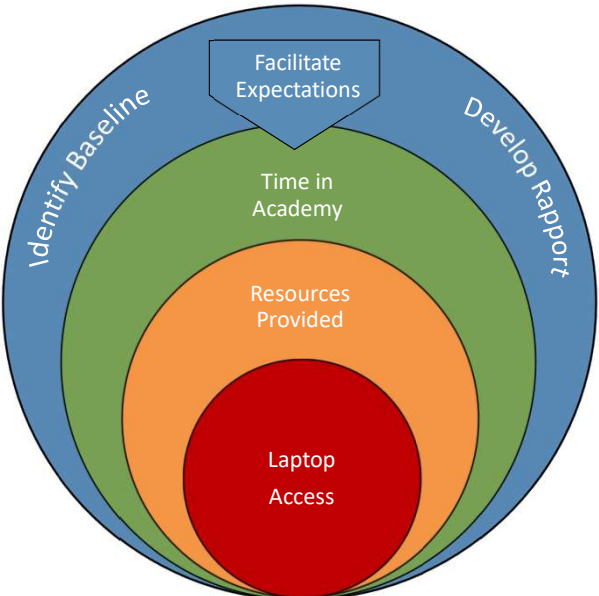


- *“What is your understanding of the laptop use policy?”*
- *“Has anyone else accessed your computer?”*
- *“How do you secure your laptop?”*
- *“What issues have you had with your laptop?”*

Question all gaps, excuses or potential explanations

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Decision Point



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Let's try a few..

- Inappropriate Communication
- Unreported Foreign Travel

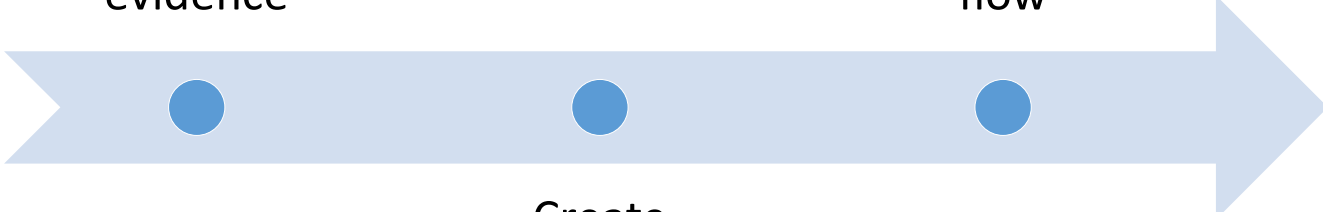
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What do I do now?

Challenge the
evidence

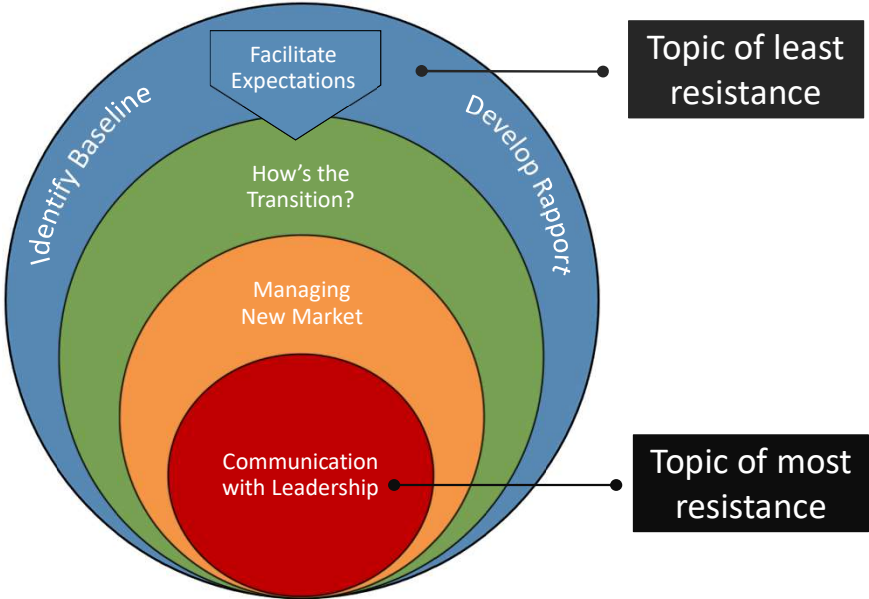
Strategize the
flow

Create
elimination
questions



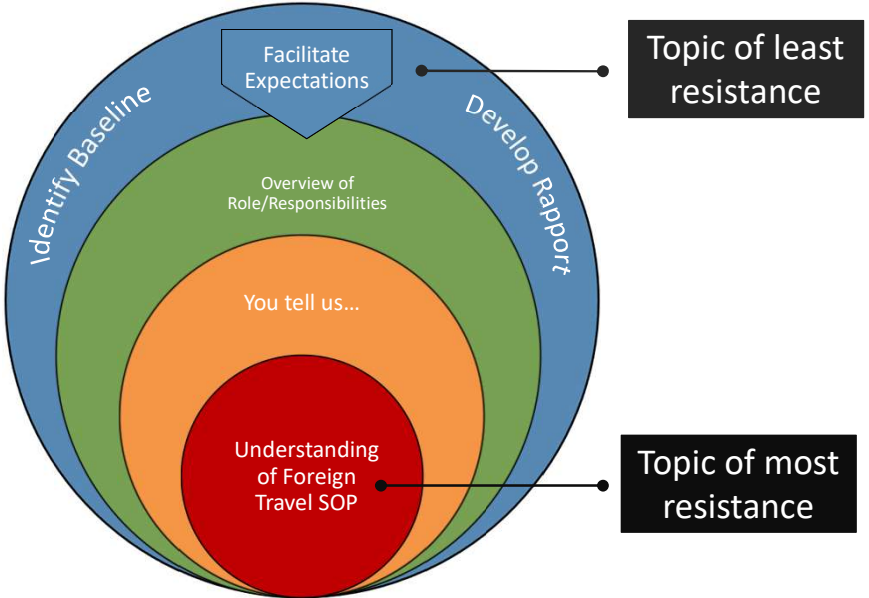
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Operation: Inappropriate Communication



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Operation: Unreported Foreign Travel



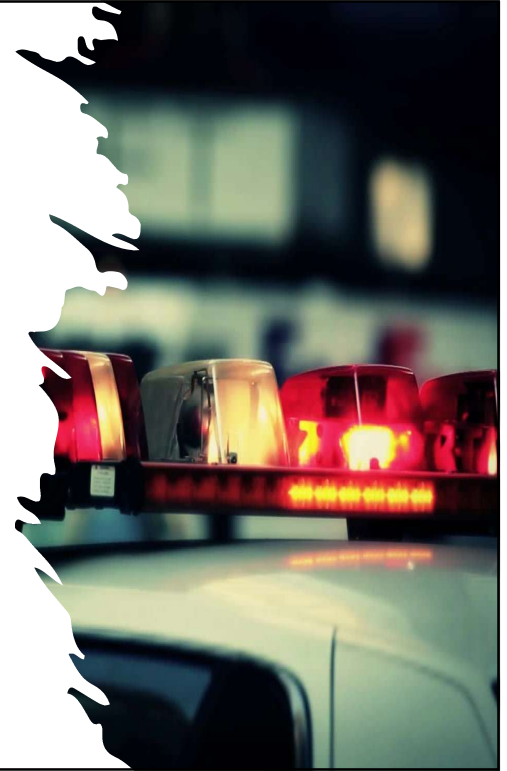
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Case #1

The city clerk has noticed for the last 6 months that 3 officers from the same police agency have been turning in copies of traffic citations with attached cash bond approximately 4 to 6 days after the ticket has been issued. The amount of cash bond is correct- meaning the cash is never short, but there seems to be a consistent delay with the submitting of cash bond and traffic ticket copies that are the result of traffic stops from these officers.

Furthermore, the traffic citations that have been issued by these officers that result in a written warning or driver's license posted in lieu of bond are turned in no later than 2 days after the tickets have been issued. All traffic stops are accounted for as they have been called in over the "air" to dispatch and digital and audio recording of the traffic stops and all calls for service per policy.

These officers are considered top performers on the shift and have been credited with many arrests pursuant to traffic stops that result in warrant arrests, drug offenses, weapons offenses, and on many occasions the recovery of stolen motor vehicles. The city clerk only became aware of the cash bond submission delays when a citizen came and acknowledged they were speeding, received a ticket, and posted cash bond at the scene of the traffic stop- but the reason for the visit to the clerk was the citizen's claim that one of the officers did not return the copy of their auto insurance card during the traffic stop and that person wants the copy of insurance returned.

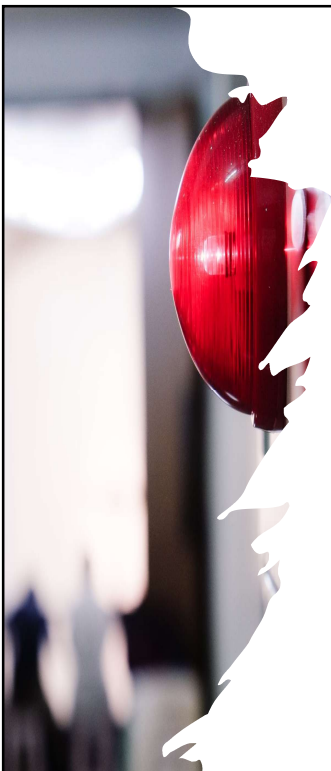


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Case #2

A detainee housed in the county jail. The detainee reaches out to his attorney and tells them that he wants to speak with I.A. in a confidential manner about a corrections officer that is assigned to the housing unit.

The detainee has observed on many occasions this particular officer give "extra" items to two other detainees that are housed in the same cell block. When this officer is assigned to the cellblock, the detainee has observed the two other detainees given extra time making phone calls. On one occasion the detainee observed what appear to be a "note" or piece of paper handed to the officer from one of the detainees. The officer appeared to have read the note and left the cellblock.



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Case #3

There is a rumor going around the office that a certain officer is writing “bogus” tickets and voiding the hard copies that gets sent to the city clerk. All of the tickets have a signature for recognizance bond. Voided tickets are allow under certain circumstances.

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Case #4

An officer on the afternoon shift in the past year has shown a pattern of sick time abuse. This officer each month takes a sick day either the day before his regular days off, or takes a sick day after his regular days off. Each month he has a 3 day weekend when he includes the sick day.

On two other occasions, he had an approved vacation day and then called in sick next day when he was scheduled to work. He recently called in sick on a day that was not in conjunction with days off. However, rumor has it he had tickets to “opening day” for the beginning of the season this favorite sports team.

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The WZ Method

IA Interviews

WZ Non-Confrontational Method

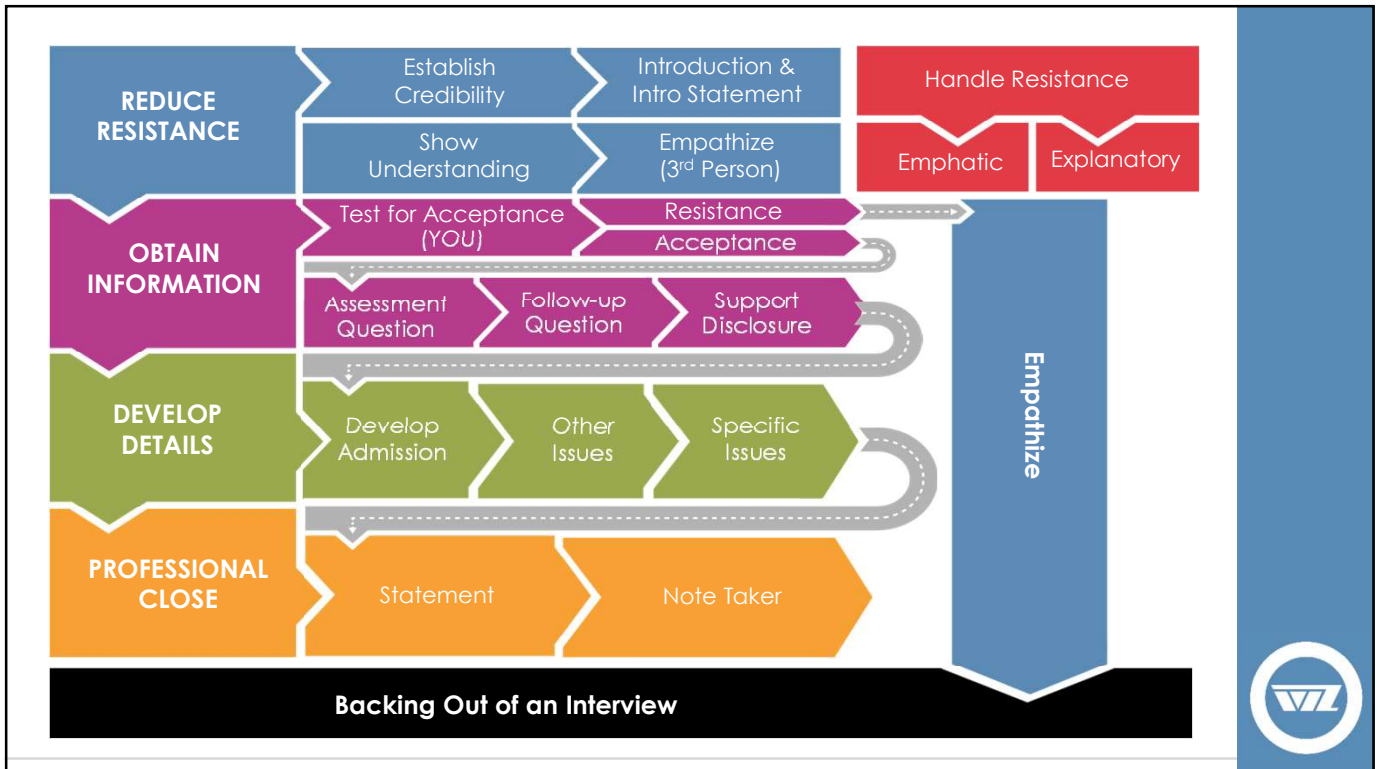
1 Establish Behavioral Norm	2 Develop Rapport	3 Who We Are What We Do	4 Types of Issues/Crimes	5 How Investigations Are Conducted	6 Summary of Motives
7 Empathy Statement	8 Changing Subject Perspective	9 Empathy Statement	10 Statement of Transparency	11 Address Timeliness	12 Protect Evidence
13 Test for Acceptance	14 Assessment Question	15 Follow-up Question	16 Support the Disclosure	17 Develop Details	18 Obtain the Statement

Caught  Understood

IDENTIFY THE TRUTH

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WZ Non-Confrontational Method



Establish Behavioral Norm



Develop Rapport



Who We Are What We Do



Types of Issues/Crimes



How Investigations Are Conducted



Summary of Motives



Empathy Statement



Changing Subject Perspective



Empathy Statement



Statement of Transparency



Address Timeliness



Protect Evidence



Test for Acceptance



Assessment Question



Follow-up Question



Support the Disclosure



Develop Details



Obtain the Statement

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Establish Credibility | Project Empathy



Establish Behavioral Norm



Develop Rapport



Who We Are What We Do



Types of Issues/Crimes



How Investigations Are Conducted



Summary of Motives



Empathy Statement



Changing Subject Perspective



Empathy Statement



Statement of Transparency



Address Timeliness



Protect Evidence



Test for Acceptance



Assessment Question



Follow-up Question



Support the Disclosure



Develop Details



Obtain the Statement

Building Trust

Interview

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Verify Background

- Establish a behavioral norm
- Shows credibility in your investigation
- Calms your nerves

#WZTrained

95

Develop Rapport

- Ask subject to tell you a little about themselves
- May disclose potential motives for rationalizations
- Reduce anxiety and builds comfort with the interviewer

#WZTrained

96

Who We Are & What We Do

- Continue to develop rapport
- Establishes your credibility
- Introduces the topic of concern
- Starts the process of saving face

#WZTrained

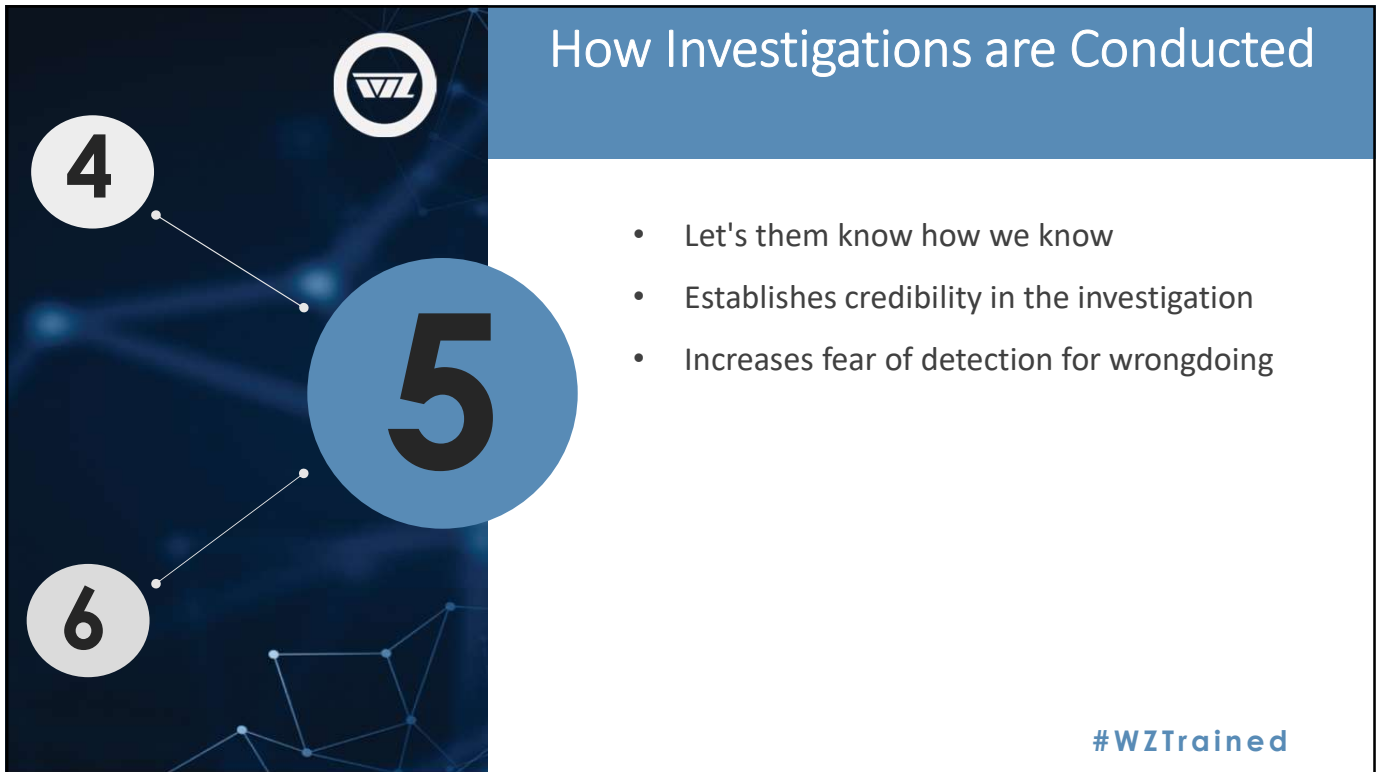
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Types of Issues/Crimes

- Lets them know we know
- Their reaction may tell us areas to explore further
- Establishes credibility that you know these different areas of potential offenses/violations
- Minimizes denials to a specific issue

#WZTrained

98

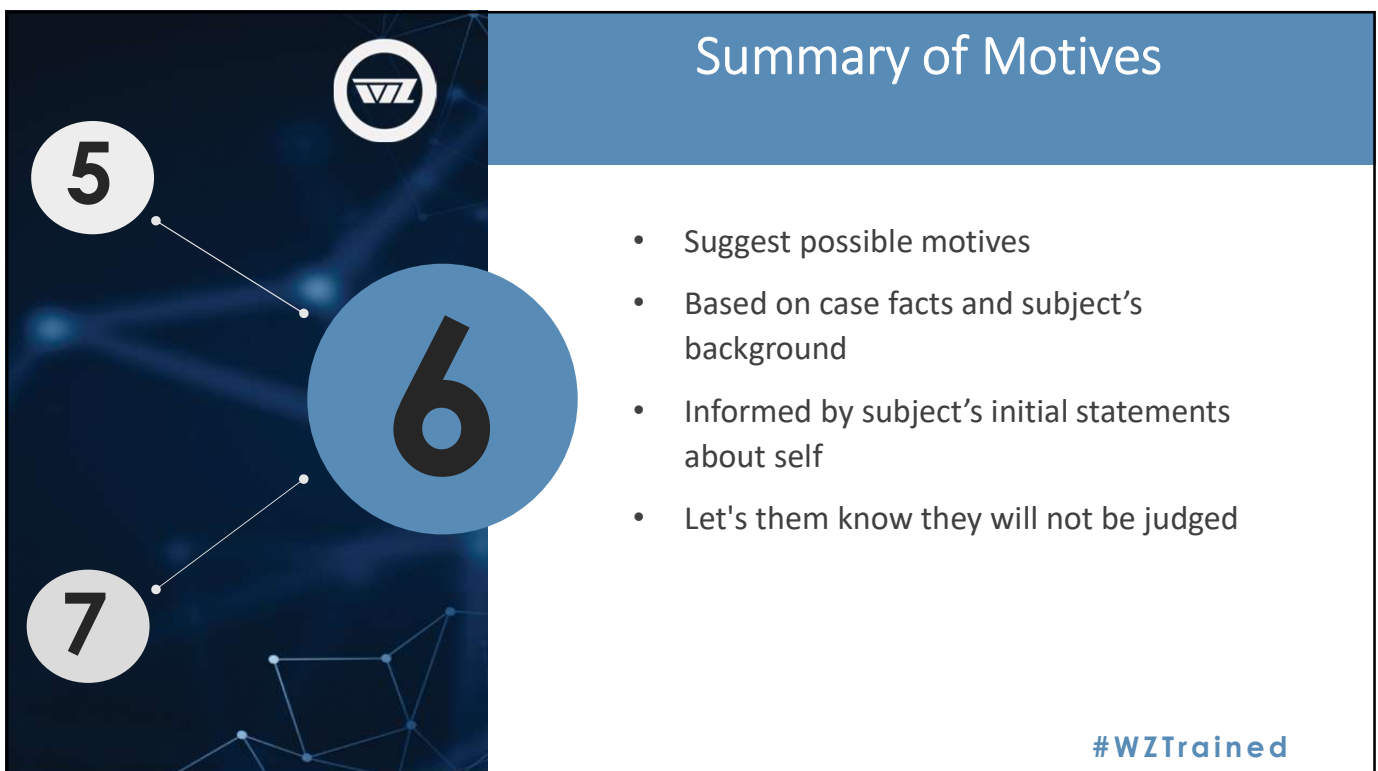


How Investigations are Conducted

- Let's them know how we know
- Establishes credibility in the investigation
- Increases fear of detection for wrongdoing

#WZTrained

99



Summary of Motives

- Suggest possible motives
- Based on case facts and subject's background
- Informed by subject's initial statements about self
- Let's them know they will not be judged

#WZTrained

100

First Empathy Statement

- Transition away from subject
- Interviewer demonstrates empathy
- Be alert for signs of acceptance or resistance

#WZTrained


101

Change Perspective

- Put subject in role of decision-maker
- Will provide insight on subject's view of the allegation
- Never imply leniency or forbearance
- Lay groundwork for next rationalization (TOPIC & STORY)

#WZTrained

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Second Empathy Statement

- Provide moral from “Change Perspective” phase
- Link back to the investigation at hand
- Express interest in subject’s motivation, as opposed to the act itself

#WZTrained

103



Statement of Transparency

- Subject may resort to silence as an evasion tactic
- Emphasize that this is their opportunity to set the record straight
- Remind them that the investigation is complete, and that a decision will be made with, or without, their cooperation

#WZTrained

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Address Timeliness

- Reminds the subject that the investigation is progressing
- The opportunity to tell their version of events is limited
- Continue with rationalization structure by restating the topic used earlier

#WZTrained

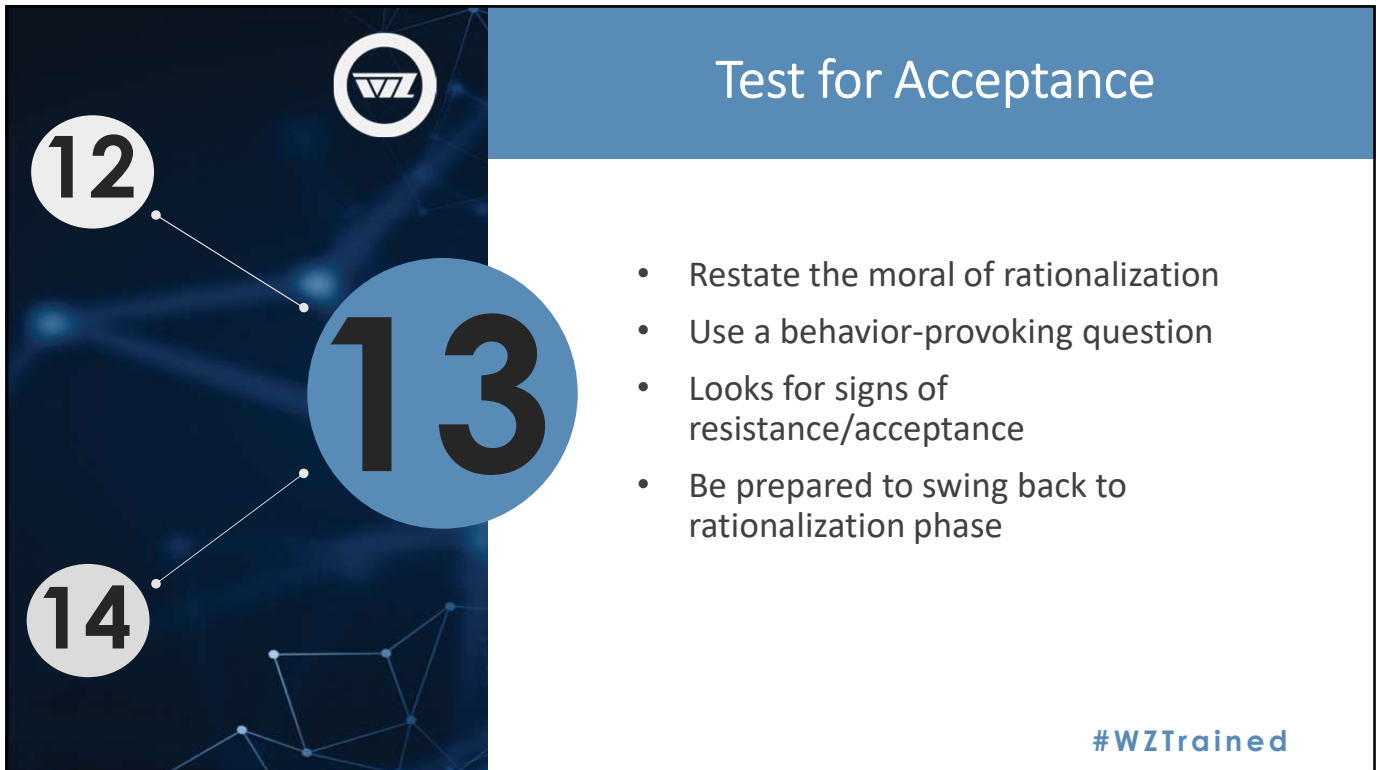
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Protect Evidence

- Generalized story about the reasons to “close hold” evidence at this stage
- Our desire for full and uninfluenced account
- Protects sources and methods
- Prevents fact-feeding
- Helps us assess subject’s honesty

#WZTrained

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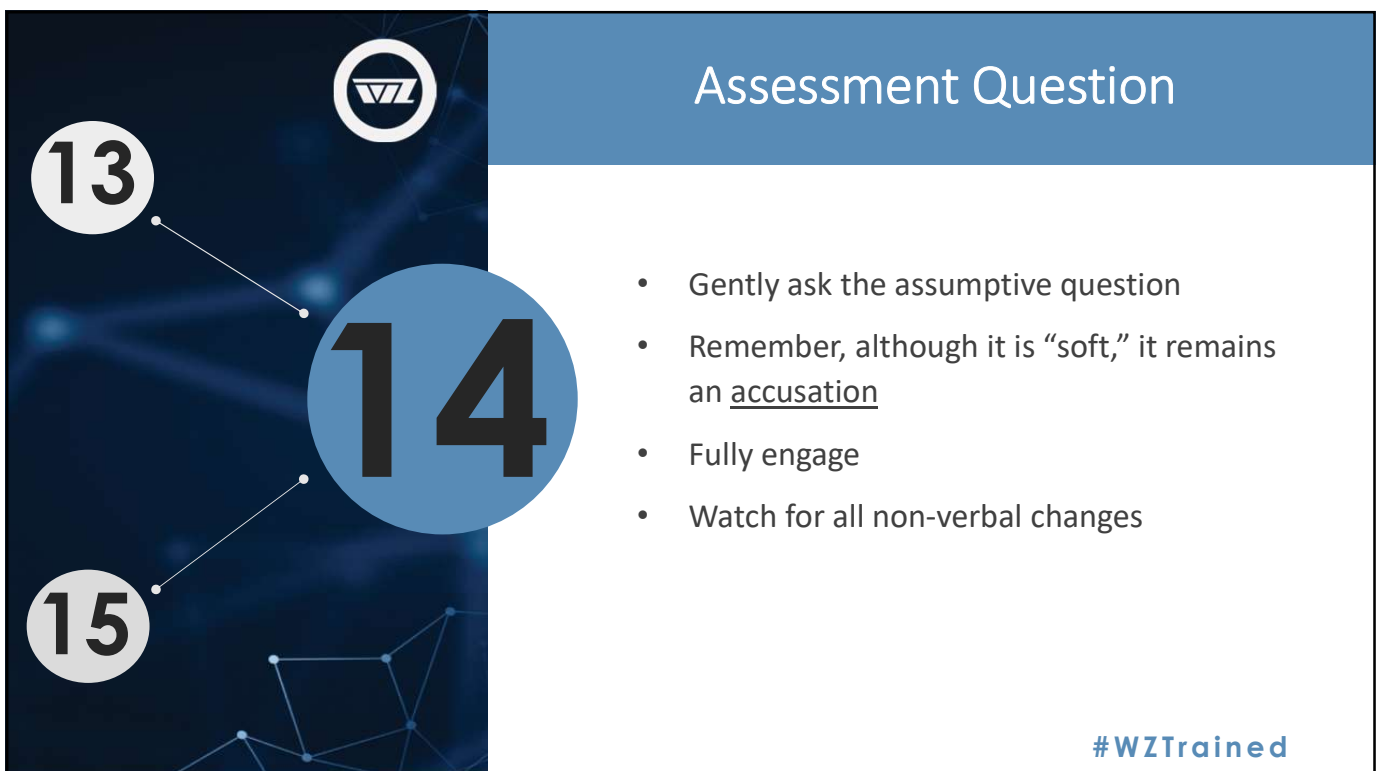


Test for Acceptance

- Restate the moral of rationalization
- Use a behavior-provoking question
- Looks for signs of resistance/acceptance
- Be prepared to swing back to rationalization phase

#WZTrained

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Assessment Question

- Gently ask the assumptive question
- Remember, although it is “soft,” it remains an accusation
- Fully engage
- Watch for all non-verbal changes

#WZTrained

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Follow-up Question

- Overstate severity of offense
- Listen carefully for any admission, however slight
- If resistance is encountered, return to rationalization

#WZTrained

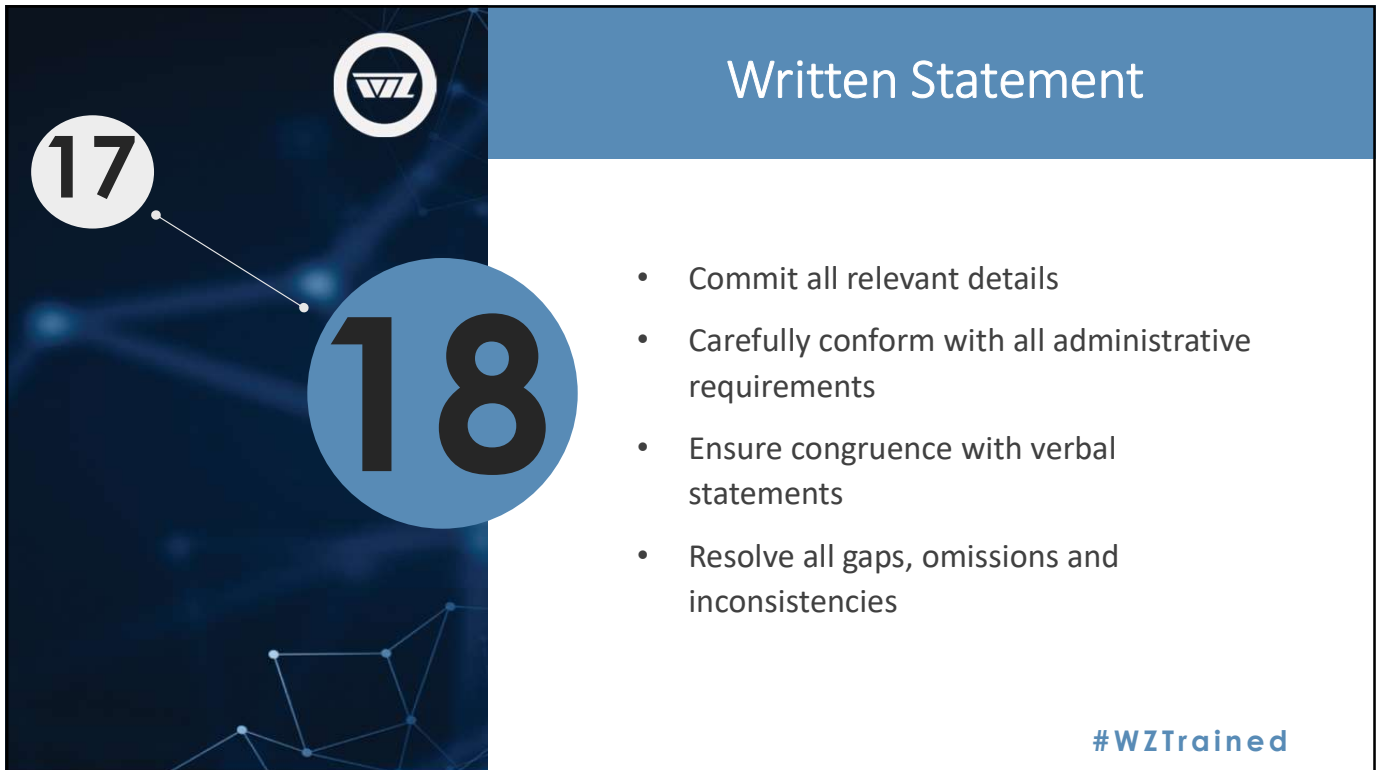
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Support the Disclosure

- Fully support any admission
- Use an unbiased, non-judgmental tone
- Follow-up by asking about actual severity of offense

#WZTrained

110

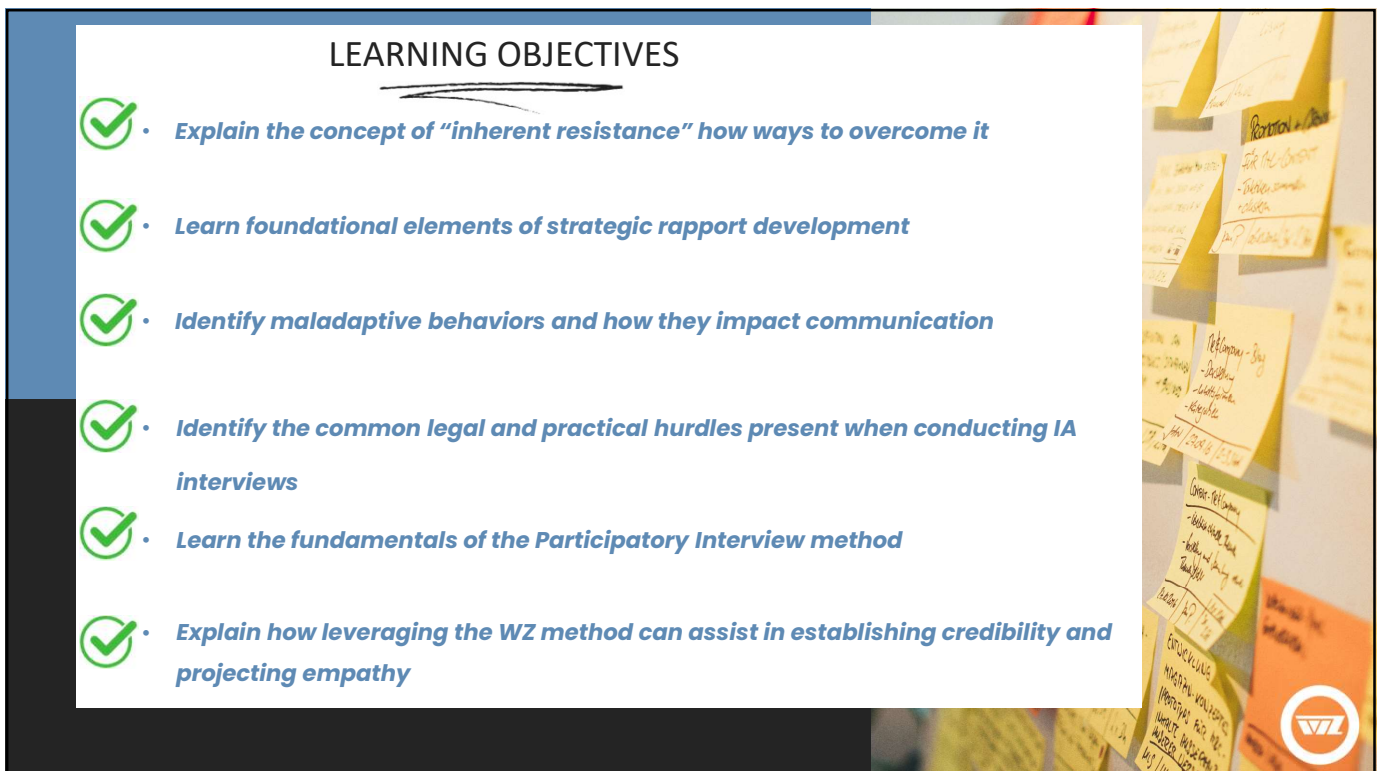


Written Statement

- Commit all relevant details
- Carefully conform with all administrative requirements
- Ensure congruence with verbal statements
- Resolve all gaps, omissions and inconsistencies

#WZTrained

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LEARNING OBJECTIVES

- ✓ Explain the concept of “inherent resistance” how ways to overcome it
- ✓ Learn foundational elements of strategic rapport development
- ✓ Identify maladaptive behaviors and how they impact communication
- ✓ Identify the common legal and practical hurdles present when conducting IA interviews
- ✓ Learn the fundamentals of the Participatory Interview method
- ✓ Explain how leveraging the WZ method can assist in establishing credibility and projecting empathy

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