

THE MINDSET OF A FRAUDSTER

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"By examining the mindset of a fraudster we can develop a more efficient and effective investigative interview strategy,"

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Fraud remains a much less researched typology than other crime categories, probably due to the fact that these offences are generally non-violent, usually undramatic, and are often perceived, however mistakenly, to involve neither immediate nor direct personal loss (and consequently no victim is easily or quickly identified).^[1]

In order to understand the characteristics of a fraudster, the evidence generated from interviews conducted in previous investigations has been shown to be invaluable in subsequent criminal cases.^[2] Hence, the importance of interviews undertaken during the course of a fraud investigation cannot be overstated.

Effective interviews come down to giving thought to the mind of the subject, as well as the interviewer's own strategic approach. As Saito Yakuro (1798-1871) said, "The hands manipulate the sword; the mind manipulates the hands. Cultivate the mind and do not be deceived by tricks, feints and schemes. They are the properties of a magician, not of the samurai."

In the ABC of Behavioural Forensics, Applying Psychology to Fraud Prevention and Detection^[3], the authors note that this injunction usefully directs us to the importance of examining how suspects think prior to, during and post an activity. We shouldn't simply 'do things' without thinking.

Fraud, a crime of deception, presents unique challenges to the investigator and interviewer, both in identifying and questioning the perpetrator. In 2008, Walsh and Milne^[4] found very little indication of preparation ahead of many complex fraud interviews, with apparent lack of thought given to strategic ordering of questions posed to suspects or to presentation of available evidence. Many interviews observed by Walsh were conducted in a "rigid" fashion with little adaptation to accommodate unanticipated responses or denials from interviewees. In this writer's experience, the 'scripted approach' appears to be the default position in the majority of complex fraud cases.

Criminal psychology

The word 'psychology' is derived from two Greek roots: 'psyche', meaning mind or soul, and 'logos', meaning 'study of'. Psychology, therefore, literally means 'study of the mind'. A more recent definition by Atkinson, et al, in 1990^[5], suggests that psychology is 'the scientific study of behaviour and mental processes'.

Howitt^[6] suggests that 'criminal psychology' is generally

taken to refer to the study of criminal behaviour and its origins, while 'forensic psychology' concerns the application of psychological knowledge or methods to the legal system, eg, when we examine evidence from victims, witnesses and suspects in addition to the analysis of legal decision-making processes. It examines how people think, act, react and interact. It is these processes that then become viable interview topics which the investigator will need to examine in order to establish the exact interaction of the suspect or witness in any given scenario. By examining 'action detail' in the event scenario, the investigator will be able to establish the verbal, physical and thought detail surrounding any interaction.

Offender characteristics

In reviewing high-stakes fraud investigations, all too often I hear the phrase, "the documents speak for themselves", which simply signals a failure to appreciate how important are offender characteristics in moulding the offence typology. While the documents prove the 'actus reus', that a fraud has been committed, for it to be a crime there must also be a 'mens rea' element. In other words, we still need to prove 'who' pressed the fraud button and, as importantly, 'why'!

Human activity is influenced by two key factors – the personality and behavioural characteristics of an individual, and the features of the environment or situation in which they find themselves. Indeed, human behaviour has often been characterised as a complex interaction between personality elements and the environment or situation an individual inhabits. Personality traits can be defined as 'internal'; they include attitudes, beliefs, needs, competencies, values and expectations, along with emotional responses: generally, these are inferred from an individual's behaviour.

Environmental factors, by contrast, are elements external to the individual that serve to support or curtail certain actions. There are two broad classes of such factors: the immediate environment (the characteristics of the individual's present situation) and the more global environment, including relationships, domestic details, and stresses, which may be financial, physical threats from others, fears, etc. As personality and environmental factors both influence individual behaviour, they should be reflected in any assessment of a suspect.

One of the forensic accounting 'classics' introduced the 'iceberg theory' of fraud and detection^[7], in which the top one third of the iceberg (sticking out of the water) involves structural considerations, such as hierarchy, financial resources, organisational goals, personal

skills and abilities, technological state and performance measurement. The theory says that fraud auditors should also examine the submerged two thirds; it is below the waterline that we establish a person's "attitudes, feelings (fear, anger, etc), values, norms, interactions, supportiveness and satisfaction". These traits will be observable if the investigator invests the time and effort to seek them out.

The interviewer needs to understand the suspect's characteristics to appreciate how they might respond: social skills; self-esteem; coping ability; attitudes and beliefs; needs; impulsivity; guilt and remorse; hostility; justification and minimisation are all in the mix. Importantly, pronounced display of one characteristic does not read across to signal others are present. ^[8]

Interview strategy should factor in identified characteristics but must be kept under constant review throughout the course of questioning.

Motivation

The investigator's aim is to understand fully what motivates the offender to commit fraud, whether acting alone or with others, as these behavioural traits will point to the scale of the activity. As criminal fraud requires proof of intent to deceive another, that, too, is reason to gain understanding of the perpetrator's motivation. In planning an interview with a suspect, it is useful to consider the characteristics of both the current and any previous offences. Of interest here is how the suspect carried out the offence – what behaviours did they manifest? This is relevant since when committing an offence, an individual may behave in ways important to them that reveal something of their particular abilities, needs and interests.

In considering the characteristics of offences, three related questions will yield insights:

First, what does the offender do that they *have to do* to commit the offence? Essentially, this question invites the investigator to consider the basic offence and the minimum behaviours the offender needs to employ in order to succeed.

Second, what does the offender do that they *do not need to do*? This question invites the investigator to consider the behaviours of the offender that go beyond those needed to succeed. It relates directly to the particular interests and motives of the offender; the extra behaviours are essentially those which he deems necessary for the offence to be a success.

Third and finally, in the specific context, what does the offender *not do that he could have done*? ^[8]

Psychopathy

Psychopathy is a personality disorder characterised by a lack of empathy for others. Corporate psychopaths turning up in greater numbers in the likes of public sector and financial institutions, should prove of considerable interest to those organisations and their stakeholders. (This observation may be germane to analysis of the recent financial crisis and the hypothesis that flawed senior managers in financial services firms were at fault.)

Corporate psychopaths are reported to be attracted to money, power and prestige. ^[9] Companies infamous for deviant workplace culture, such as Enron, WorldCom and Tyco, were, at one point, market leaders.

In a 2011 survey of 5,400 individuals from a wide range of professions, Oxford University psychologist Kevin Dutton compiled a list of the top ten jobs that ranked highest and lowest for psychopathic traits. The results showed that CEOs, at least in the United Kingdom, came out top of the list. Research indicates that one in 25 CEOs can influence the culture throughout their company to reflect psychopathic traits. ^[10] The results are devastating. Just look at the Enron example: 21 executives were found guilty of fraud-related offences and over 21,000 employees lost their jobs.

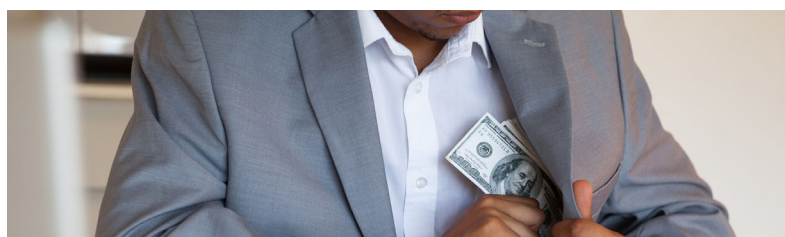
Dr Hare in 1993 ^[11] described psychopaths as an intra-species predator that uses charm, manipulation, intimidation and violence to control others as well as to satisfy their own selfish needs. Lacking conscience and feelings for others, they dispassionately take what they want and do as they please, violating social norms and expectations without the slightest sense of guilt or remorse. Initially, Dr Hare's scale of psychopaths was divided into two sets of factors but more recently further subdivided into four: Interpersonal – Affective – Lifestyle – Antisocial.

The four classes may be incorporated as interview objectives. Characteristics identified by Hare appear in the table below:

Interpersonal	Affective	Lifestyle	Antisocial
Superficial charm	Remorselessness	Impulsivity	Poor behavioural controls
Grandiosity	Shallow affect	Stimulation seeking	Delinquency
Lying	Callousness	Irresponsible	Criminal versatility
Cunning and manipulative	Failure to accept responsibility	Parasitic lifestyle	Early behavioural problems
	Promiscuous sexual behaviour	Lack of realistic goals	

From 'The Psychopath: Theory, Research, and Practice', Herve & Yuille (2007).

The same rule applies: interviewers faced with a psychopathic suspect should familiarise themselves with his or her characteristics and develop a questioning approach that aims to extract evidence to support or eliminate each class. Remember that any attempt to engage a psychopathic subject on empathic ground will fail.



Interview approach

In designing the interview strategy, you should bear in mind that the result may provide a jury with its only insight into a defendant's personality, their truthfulness, arrogance, lack of emotions, selfishness and manipulation – especially if the defendant decides not to testify.

Milne and Griffiths reported in 2006 ^[12] that PEACE (Preparation and Planning, Engage and Explain, Account, Closure and Evaluate), an interviewing model devised in the early 1990s for law enforcement officers, regardless of experience and applicable to any offence, marked a significant step forward. But this writer does not believe in the one-size-fits-all method. Instead we should be more dynamic in our approach and tailor each investigative interview strategy to the subject.

Specific techniques, which should achieve results with even the most difficult subjects, include: ensuring one is fully *au fait* with the case beforehand; presenting as confident and experienced, and creating a sense of authority and formality; not worrying about rapport or flat responses devoid of any emotions, but, rather, showing liking for the interviewee; adopting a 'seek to learn' rather than confrontational mode of interrogation; maintaining control, avoiding criticism and challenging cautiously. Broadly, interviews, especially with a corporate psychopathic suspect, should progress in a pre-planned, logical fashion, so that a clear picture of the case against him is built up step-by-step.

Conclusion

Effective interviewing of those who commit serious fraud calls for thorough planning in advance, with topics to be covered clearly defined and understood, while time invested in researching both victims and offenders will pay dividends. Sometimes difficult to identify psychological processes can be at work in those who perpetrate fraud; this puts the onus on the investigator to attempt to understand the subject as well as possible before the meeting. Every interview is unique according to the nature of the subject – how they think, act, interact and react in the context of their offending behaviour.

In approaching an investigative interview ask yourself, 'Am I match fit'? In other words, are you the most appropriate person to interview the subject and, if so, do you comprehend, as far as you are able, the mind of the fraudster?

Notes

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See also, Quayle, J (2008). Interviewing a Psychopathic Suspect. *Journal of Investigative Psychology and Offender Profiling*. 5, 79–91.



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