

# Research-Based Methods for Questioning Witnesses and Assessing Credibility in Workplace Investigations

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## About Michael Johnson

- CEO of Clear Law Institute, which provides online sexual harassment training and ethics and compliance training to more than 800 organizations
- Former attorney in the US Department of Justice
- Has provided investigations seminars for dozens of Fortune 500 companies and organizations such as the EEOC, the World Bank, and the United Nations
- Graduate of Duke University and Harvard Law School



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## Overview

- What scientists have found are the best ways to interview witnesses to ensure that you:
  - ▣ Gather the most information, and
  - ▣ Best assess credibility

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## Assessing Credibility

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## How good are you at detecting deception and truthfulness?

I believe I can correctly identify if a person is lying or  
telling the truth the following percentage of time:

- a) 25%
- b) 50%
- c) 75%
- d) 90%
- e) 100%

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## Police interview of a murder suspect

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Select all that apply—On average, liars are more likely than truth tellers to:

- a. Avoid eye contact
- b. Become fidgety
- c. Increase their blink rate
- d. Look up and to the right

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## Examining “cues to deception”

- We tend to pay attention to “cues to deception” that have not been scientifically validated and are not reliable predictors of lying
- Three factors that impact how people may behave when lying
  - Emotion
  - Cognitive effort
  - Attempted impression management

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## Liars are NOT more likely than truth tellers to:

- a. Avoid eye contact (DePaulo 2003, Mann 2012 and 2013)
- b. Become fidgety (Mann 2002)
- c. Increase their blink rate (Leal & Vrij, 2008)
- d. Look up and to the right (Porter 2012)

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## How well does the average person spot lies?

- The average person can correctly spot what percentage of lies? (Bond & DePaulo 2006)
- Average person does better at spotting lies by just hearing the person or by both hearing and seeing the person's face? (Leach 2016)
- Observers tend to focus on demeanor, but it's a poor predictor of truthfulness (Levine 2011)
- Focus on listening instead of looking

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## Differences when lying versus telling the truth

- Length of time speaking
- Level of detail
- Equivocations/Qualifiers
- Use of passive voice
- Use of pronouns

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## Is anything suspicious about these responses?

- Q: Alice, have you ever run your fingers through Ronald's hair?
- A: Not that I recall.
  
- Q: Henry, have you ever told an ethnic joke in the workplace?
- A: Not really. Speaking of jokes, you should hear the ethnic jokes that Todd and Mark tell around here.

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## Interviewing Strategies

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## Interviewing style

- Primary goal is to get the person to talk
- Journalist, not a prosecutor at trial
- Be suspicious, but don't show your suspicion

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## Cognitive Interview (“CI”)

- The CI is the most widely researched investigative interviewing technique in the world
- Obtains around 50% more detail than standard interview techniques
- Shown to make it easier to spot deception

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## Stages of the Complete CI

- Introduction/Rapport
- Free Narrative
- Drawing
- Follow up questions
- Reverse order technique
- Challenge

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## Introduction/rapport building

- Start with casual conversation on non-threatening topics

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## Free Narrative

- “Please tell me everything you can and give me as much detail as possible.”

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## Length of Responses and Amount of Detail

- In response to a request for a narrative answer, liars tend to provide a bare-bones account with little detail (Colwell 2007)

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## Request for drawing

- “Now that you’ve told me what happened, I’d like you to draw the event. Drawing the event can give you another opportunity to recall details that you may have forgotten. It can also help me get a better understanding of exactly what happened.”

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## Drawings can be hard for those who are being deceptive

- Drawings give truth tellers another opportunity to tell the story and display what occurred, which often results in additional details
- Compared to truth-tellers, liars tend to:
  - Provide few, if any, additional details in the drawing
  - Have greater difficulty in making the drawing
  - Display more inconsistencies between their previously provided verbal free narrative and the drawing (Vrij 2009)

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## Follow-up questioning

- Ask for clarification and elaboration
  - Liars typically do not elaborate much or offer additional details (Colwell 2007)

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## Sensorial Details

- Can ask about sensorial details, which are more difficult for liars to make up
  - ▣ “Take a moment and think about the event again. Is there anything else you may have seen, heard, or felt during this experience?”
- Liars provide fewer perceptual details that can be verified than truth tellers (Nahari 2014).

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## Reverse-order technique

- “We are going to try something that sometimes helps people remember more details. I’d like you to tell me what happened, but this time start from the end and go to the beginning.”
- Truth tellers provide more detail

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## Reverse order technique

- Research shows that deceptive persons have unusual difficulty telling their fabricated stories backwards
- Studies have shown that people are better able to spot deception when person is required to tell story in reverse order (Evans 2013)

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## Reverse order study (Evans 2013)

- Half of participants instructed to tell what they did in reverse order
- % of lies accurately detected
  - Control: 18%
  - Reverse Order: 75%

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## Try to ask unexpected questions

- If you ask an unexpected question and the person is lying, the person will have to make up a story on the spot.
- Come back to the topic later in the interview
- Unexpected questions can be useful where you have two people giving a joint alibi and they are being interviewed separately (Vrij 2009)
- Look especially for inconsistencies relating to time and space

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## Results from a study with two people giving a joint alibi

- On the basis of consistency of the answers to:
  - Spatial questions, 80% of liars could be correctly classified
  - Drawings, 75% of liars could be correctly classified (Vrij 2009)

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## Other issues to address in “he said/she said” cases

- Motive to lie
- Corroboration

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## Challenge stage

- Don't challenge the person until the very end
- Remain respectful, even soft-spoken

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## Direct challenge at the very end

- Example: “I think that you have not been truthful with me”
- Liars tend to not provide additional information. Instead, they may deflect an answer with responses like, “I’m sorry you don’t believe me” or “Why would I lie?” (Geiselman 2012)
- Most truthful subjects will give a firm denial and then offer additional information to support their story (Geiselman 2012)

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## Study of CI’s Effectiveness

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## Mean Truth Ratings (8-point scale) by Interview Stage

At the end of each stage of the interview, study participants were asked to rate how deceptive or truthful they thought the person was being.

1 = Very likely deceptive  
8 = Very likely truthful  
4.5 = midway point

Event	Rapport	Narrative	Drawing	Follow-Up Q's	Reverse Order	Challenge
True	<b><u>5.34</u></b>	5.17	5.17	5.49	<b><u>7.17</u></b>	<b><u>7.70</u></b>
False	<b><u>4.84</u></b>	4.17	3.34	2.84	<b><u>1.49</u></b>	<b><u>1.49</u></b>

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## Summary

- Listen instead of look
- Require witness to do most of talking
- Use some or all elements of the Cognitive Interview

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## Questions?

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