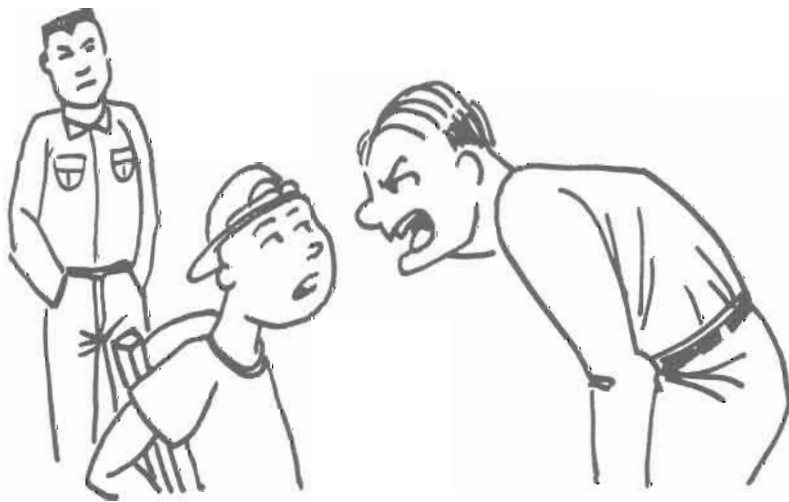


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4

CHAPTER

RESISTING INTERROGATION

It's unlawful for the police to beat you into confessing;¹ however, it's perfectly legal for them to sucker you into it. That's why interrogation doesn't usually involve bright lights and rubber hoses—more often than not, the officer sounds sympathetic or at least business-like. And that can leave you even more vulnerable to manipulation, because when you feel relieved that the officer isn't being really scary, you tend to let your guard down. Besides, it's truly difficult to overcome the natural urge to talk one's way out of trouble. That's why it makes so much sense to train yourself to say *I'm going to remain silent. I would like to see a lawyer*, under any circumstances. It's got to become a reflex you can rely on, the same way you know that you'd automatically start swimming if you fell into deep water, even if you were scared and disoriented.



Look, if you don't answer my questions, I won't have any choice but to take you to jail. This is your chance to tell your side of the story.

This is the commonest trick of all! The police consistently pretend that they're considering letting you go, when they've already made up their minds to take you to jail. Remember, the time to tell your side of the story is when you're in court and have your lawyer helping you—not when you're alone with a cop who's busy building a case against you. See how a real police inspector uses this technique during an actual interrogation, in *Use a Pie, Go to Jail*, page 46.



COMMON INTERROGATION LINES



You're not a suspect. We're simply investigating here. Just help us understand what happened and then you can go.

If you answer questions, you're likely to become a suspect, if you aren't really one already.



Your friends have all cooperated and we let them go home. You're the only one left. Do you WANT to stay in jail?



The police can lie about where your friends are and what they've said. Take a look at *Rat Jacket*, page 63. Don't trust information given to you by the cops. Make sure to verify your facts through a lawyer or your friends and family.



What are you afraid of? If you haven't done anything wrong, then you shouldn't have any problem answering my questions.²

What you should be afraid of is being lured into answering questions. You don't have anything to prove. Remember, in court you're "innocent until proven guilty"—and the thing most likely to prove guilt is an unplanned statement made when you're arrested. If the police are thinking of arresting you, answering their questions will make them more determined to do it, not less so.



I'm tired of screwing around. If you don't answer my questions, you're going to be charged with obstruction.

Well, you know this is garbage, because the Constitution guarantees you the right to remain silent—so refusing to answer questions can't be against the law. But some cops will still threaten you with "resisting an officer" or "obstruction of justice," just to see whether you'll fall for it.



1. The Fifth Amendment to the U.S. Constitution says that no one "shall be compelled in any criminal case to be a witness against himself."

2. This is not the time to launch into a political discussion of how the legal system is malfunctioning and can't be trusted to protect the innocent. Don't let yourself be drawn into any kind of conversation at all. Besides, this "what're you afraid of" business is like a 12-year-old's dare ("If you're so tough, why don't you try getting across the tracks before that train comes?" or "You don't even know the first thing about how to drive—let's see you take your Mom's car around the block.").



*Come on, I'm not asking you to sign anything. We're just talking. And you can stop any time you want to.*³

Remember, anything you *say* can be used against you in a court of law. You don't have to sign anything to make it a real confession—the police will just quote you (and they may be taping you, too). The time to stop is before you ever begin—even a little time spent answering questions can completely screw up your case.



Look, we've got all the evidence we need to convict you, so you might as well confess.



Yeah, right. If the police really had all the evidence they needed, they wouldn't waste time talking to you. The only reason they're questioning you is because they *don't* have enough proof, and they're hoping you'll be kind enough to give it to them.



Basically, the case against you is really strong. It's not a question of WHETHER you're going to jail—it's a question of what you're going to jail for. This is your last chance to get the right information to the DA before he decides on the charges.



This is not the time to give more information to the DA (the prosecutor). You can do that later, once you've got a lawyer helping you. After all, the DA can change the charges any time up to trial, and usually does—reducing or dismissing them as part of a plea bargain. But your lawyer can get you a better deal if you don't give away all your bargaining power by confessing to the arresting officers.



You know, there's only one person who can help you right now, and that's you. I can listen, but you've got to do the talking. This thing is going to eat at you; it's going to weigh you down for the rest of your life, if you don't get it off your conscience. Things look pretty bad right now, and they are. But this is where you have to start from. You've got to get this stuff out now, so you can move forward. If you could talk to the victim right now, what would you want to say to him?



Confession may be good for the soul, but not when it's to the police. Talk about your feelings with a spiritual advisor such as a minister, priest, rabbi or imam, or with a licensed counselor such as a psychiatrist, psychologist, or social worker (but not a probation officer). They have the professional training to help you, and more important, they're prohibited by law from testifying about what you confide to them. Cops, on the other hand, will gladly testify about what you've "gotten off your chest."

*You got a choice here. Either you answer my questions, or you're going to jail. And I'd hate to see a nice white boy like you get punked by a bunch of nigs.*⁴



— or —

*You can talk to me now, or you can go to jail. And let me tell you something, there's women in that jail who haven't been outside in months, women who haven't been with a man for a real long time. How'd you like to be raped by a bunch of lesbians?*⁵

Cops use this kind of race-baiting and queer-bashing pretty frequently to scare white people who haven't been to jail before. And the cops aren't particularly subtle about it. Don't let some bigot with a badge put his trash into *your* head.

TV and movies make rape-in-jail scenarios look more frequent than they really are. Most people in jail are there for drug or property crimes, not crimes of violence (much less sexual violence). If you behave reasonably, other prisoners really aren't likely to give you a hard time. See Appendix C: Advice for Those Going to Jail for the First Time, page 183.



3. This is a lot like: "Don't worry, we can stop whenever you want to. Besides, you can't get pregnant the first time."

4. Said to Mike Esmailzadeh by a New Orleans cop.

5. Said to Katya Komisaruk by a U.C. Berkeley cop.

GENERAL INTERROGATION TECHNIQUES

You know the police are really trying to manipulate you when they offer a legal defense or moral justification for what you're accused of doing, or imply that what happened was due to an accident or to circumstances beyond your control.⁶ In applying this tactic, the interrogator frequently offers the suspect two choices, for example: a believable explanation or an unbelievable one; an honorable excuse or a dishonorable one. Of course, both choices are still damaging admissions—it's just that one *sounds* better than the other. Imagine the following lines said by a sympathetic, understanding police officer in a warm, reassuring tone of voice:

Legal Defense

- *I understand what you're saying...be threatened you, and essentially you were acting in self-defense.*
- *Okay, we've got you for possession of marijuana. But what isn't clear to me is: were you just out to get stoned, or were you maybe using it for medical purposes?*

Moral Justification

- *What I'm wondering is whether you needed that money so you could take care of your kids and get them decent food and clothes and all—or did you just do it because you wanted drugs or new Nikes or whatever?*
- *Well, that's a perfectly normal reaction. When a man finds out that his wife is sleeping with another guy, he's going to want to go out and do something about it.*

Accident or Circumstances Beyond Control

- *Now, I wasn't there, so I don't know. Only you know what really happened. But I'm thinking that when two people get into it, when there's an argument, stuff can happen that nobody ever intended. I mean, you could've just been shoving each other around, and he could've fallen and hit his head by accident—just plain bad luck.*

- *Obviously there's a difference between being an active participant and being a bystander. It's one thing to be actually involved in selling the drugs, and it's another thing to just be in the house when some other guys are doing a deal there. But the way things look, you could be either one. And the only way we're going to be able to figure out what your real role was, is if you talk to us.*

Another common aspect of Reid interrogation is **minimization/maximization**, contrasting the worst case scenario with the best possible outcome.

- *You know, there's a lot of different ways this case could be charged. Anywhere from first-degree murder—that gets you life without parole—all the way down to involuntary manslaughter, for which people typically get probation. What we're doing right now is trying to understand what really happened, so we can make a decision which way to go...*

Often the police will even say, "Look, I'm not making any promises..." and then *imply* that confessing will result in a better outcome in court: lesser charges, a more favorable sentence, etc. This is a lie. The police are not authorized to offer leniency in exchange for a confession. Only the prosecutor or judge can make a plea bargain.⁷

All law enforcement officers are trained to question suspects. Very few civilians have any practice in spotting or withstanding the interrogation techniques police use against them. It's pretty stupid to play such lousy odds when your liberty's at stake.

6. John Reid codified these tactics, referring to them as the "Nine Steps of Interrogation." Reid and his partner Fred Inbau spent decades writing about and teaching interrogation techniques, and business is still booming at <http://reid.com/>. In U.S. police academies, their books have been the most popular texts on this subject. Their work is full of sample scripts, generally involving a hapless suspect named Joe: "Joe, if this whole thing was your idea, that tells me that you have a criminal mind. But if you were just talked into doing this against your better judgment, that would be important to include in my report. You were just talked into it, weren't you?" For examples of how such techniques get innocent people to confess to crimes, take a look at the work of Richard Ofshe, at <http://sociology.berkeley.edu/faculty/ofshe/>.

7. There's a difference between confessing and snitching. A law enforcement officer can't offer you a deal in return for a confession, but he can make a snitch deal. See *Informants*, page 79.