

PSYCHOLOGY OF INVESTIGATIVE INTERVIEWING: IMPLICATIONS OF MENDEZ PRINCIPLES IN ADVANCING THE FIELD*

*Ceza Soruşturmaları Bağlamında İfade Yöntemlerinin Psikolojik Boyutları:
Mendez Prensiplerinin Alanın İlerlemesine Katkıları*

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ABSTRACT

While procedural regulations describe legal frameworks in obtaining suspect statements, forensic psychological research has refined suspect interview methods around the world. Historically, suspect interrogations have evolved from third degree tactics (e.g., physical pressure) to psychological coercive methods (e.g., REID model) and finally evidence based inquisitory models (e.g., PEACE). Following the abolishment of third degree methods, the psychological coercive methods (e.g., REID model) became prevalent in North America. This approach aims to obtain confessions via a nine-step protocol. Initially, the REID model training modules were in demand around the world as authorities were able to obtain confessions without resorting to physical coercion. However, a significant number of these confessions were found to be false, thanks to DNA evidence. Contemporary empirical findings suggest that criminal investigators should focus on facilitating information gathering process rather than striving to obtain confessions from suspects. For instance, the PEACE model from England and Wales appears to be more effective than unstructured interviews or coercive models. This model also fit well with legal frameworks in Türkiye and in many other jurisdictions. In a 2016 appeal to the U.N. General

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Assembly, former U.N. Special Rapporteur Jean E. Mendez underlined the international concern for coercion in interviews. This paper argues that psychological research has much to offer in assisting criminal proceedings by refining suspect interview procedures. In this framework, this paper examined the evolvement of investigative interview methods. The findings suggest that coercive models compromises human rights and also ineffective in obtaining admissible evidence in comparison to inquisitory models.

Key Words: False Confessions, Investigative Interview Methods, the REID, the PEACE, and the Mendez Principles

ÖZET

Ceza muhakemeleri usulleri şüpheli ifadelerinin yasal çerçevelerini çizerken, dünya genelinde adli psikolojik araştırmalar ifade alma yöntemlerinin geliştirilmesine katkı sağlamıştır. Tarih içinde şüpheli ifadeleri üçüncü derece taktiklerden (örn., fiziksel cebir) psikolojik baskı içeren sorgu yöntemlerine (örn., REİD) ve son olarak kanıt temelli araştırıcı modellere (örn., PEACE) dönüşmüştür. Amerika Birleşik Devletleri'nde fiziksel şiddet içeren üçüncü derece ifade yöntemlerinin yürürlükten kaldırılmasını takiben Kuzey Amerika'da REİD ve benzeri sorgu modelleri yaygınlaşmıştır. Söz konusu yöntemler fiziksel şiddet kullanmaksızın şüphelilerin isnat edilen suçları itiraf etme olasılıklarını artırdığı için ilk yıllarda dünya genelinde rağbet görmüştür. Bununla birlikte, ilerleyen yıllarda DNA analizleriyle elde edilen deliller söz konusu itirafların bir kısmının sahte (asılsız) olduğunu göstermiştir. Güncel araştırma sonuçları ceza soruşturması yürüten yetkililerin şüpheli itiraflarına odaklanmak yerine bilgi toplama süreçlerini kolaylaştırmaya odaklanmalarını önermektedir. Örneğin, İngiltere ve Galler'de geliştirilen ve kanıt temelli araştırıcı modellerden biri olan PAECE yapılandırılmamış ve REİD modelinden daha etkili yöntemleri içermektedir. Bu model aynı zamanda Türkiye ve diğer ülkelerdeki ceza muhakemeleri usullerine de uygun görünmektedir. 2016 yılında dönemin B.M. özel raportörü Jean E. Mendez'in B.M. Genel Kuruluna yaptığı çağrıda şüpheli ifadelerinde zorlama ve kötü muameleler ilgili uluslararası endişelerin altını çizmiştir. Bu makale psikolojik araştırmalarının kanıt temelli şüpheli ifade alma yöntemlerin geliştirmesi yoluyla ceza yargılamalarına katkı sağlayabileceğini önermektedir. Bu çerçevede, bu çalışmada suç soruşturmalarında etkili şüpheli ifade yöntemlerinin gelişim süreçleri ve uluslararası uygulamalar değerlendirilmiştir. Araştırma bulguları psikolojik veya fiziksel baskı ve şiddet içeren modellerinin evrensel insan hakları prensiplerine aykırı uygulamalara yol açabildiği ve kanıt temelli araştırıcı modellere kıyasla hukuki delil niteliğinde bilgi toplama yönünden de yetersiz olduğunu göstermektedir.

Anahtar Kelimeler: Asılsız İtiraflar, İfade Alma Yöntemleri, REİD Sorgu Modeli, PEACE modeli, Mendez Prensipleri.

INTRODUCTION

The primary objective of forensic psychology has historically been assisting criminal justice systems around the world.¹ For instance, in 1908 German psychologist Hugo Munsterberg wrote a seminal book of forensic psychology “*On the Witness Stand*”.² Munsterberg’s arguments on the applicability of psychological research in legal context initially was not popular among legal scholars; however, in the following years the role of psychology in justice systems has exponentially expanded.³ Accordingly, psychological research has made significant contributions to the development of interrogation and interview models and the development of in-service training for law enforcement officers as well as other justice authorities.⁴ It should be noted that the nature of these contributions vary in accordance with a given legal context. On this note, for instance, suspect interview processes involve distinctive procedures in adversarial and inquisitory justice systems. It is beyond the scope of this paper to review the detailed account of these differences; however, a brief review of the impact of distinct legal procedures on suspect interview practices is presented in order to provide a comprehensive perspective on the subject. In adversarial criminal justice systems police officers are authorized to arrest a person based on reasonable grounds (e.g., Canadian Criminal Code).⁵ Also, in this legal context (e.g., USA, Canada, and UK) suspect interviews are conducted by law enforcement officers.⁶ The suspect interrogations typically take place in a designated interview room privately without the presence of legal counsel, often with video and audio recording without the limitations of court room proceedings.⁷ In this framework, the distinction between an

¹ Joanna Pozzulo, Craig Bennell, and Adelle Forth, *Forensic Psychology* (5th ed. Pearson Canada 2018), p. 3.

² Hugo Munsterberg, *On the Witness Stand* (Garden City, NY: Doubleday 1908).

³ Curt R. Bartol and Anne M. Bartol, “History of Forensic Psychology” in Irving B. Weiner and Allen K. Hess (eds), *Wiley Series on Personality Processes. Handbook of Forensic Psychology* (Oxford 1987) 3-21.

⁴ Dennis Howitt, *Introduction to Forensic and Criminal Psychology* (6th edn, Pearson Canada 2018) 2-3.

⁵ Criminal Code of Canada, R.S.C., 1985, c. C-46 (Arrest without warrant by peace officer 495 (1) A peace officer may arrest without warrant (a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence; (b) a person whom he finds committing a criminal offence).

⁶ R. v. Oickle, 2000 SCC 38 (CanLII), [2000] 2 SCR 3, <<https://canlii.ca/t/525h>>, retrieved on 2021-10-02

⁷ *Watts v. Indiana*, 338 U.S. 49 (1949) (Suspect held incommunicado without arraignment for seven days without being advised of his rights. He was held in solitary confinement in a cell with no place to sleep but the floor and questioned each day except Sunday by relays of police officers for periods ranging in duration from three to nine-and-one-half hours); *Turner v. Pennsylvania*, 338 U.S. 62 (1949) (suspect held on suspicion for five days without arraignment and without being advised of his rights. He was questioned by relays of officers



interview and interrogation can be ambiguous. A person of interest⁸ who came in for an interview may be subject to an interrogation once the interviewing officer has reasonable grounds to believe that this person is the perpetrator.

In addition, prosecutors have a relatively passive role in interviewing witnesses and interrogating suspects in adversarial justice system in comparison to inquisitory justice systems. In adversarial justice systems, the prosecution office takes charge of the case when the accused is about appear before courts.⁹ Furthermore, prosecutors do not typically take statements from witnesses or interview suspects outside of court settings. However, prosecutors cross-examine witnesses alongside of defense attorneys during the court proceedings. Similarly, should the accused waive their right to remain silent in courtrooms, they are cross-examined by the prosecutor and defense attorney before the presiding Judge. On the other hand, in inquisitory justice systems (e.g., Türkiye), prosecutors are authorized to interview suspects outside of courtrooms, while interrogations are conducted by a presiding Judge during court proceedings.¹⁰ In this legal context, prosecutors and law enforcement officers are also authorized to interview suspects with the presence of often legal counsels.¹¹ Irrespective of the aforementioned procedural differences, the objective of suspect interviews in criminal investigations is manifold: to construct suspect cooperation in the process, to obtain the detailed account of criminal occurrences, including a confession, and to assess the reliability

for periods briefer than in *Watts* during both days and nights); *Harris v. South Carolina*, 338 U.S. 68 (1949) (Suspect in murder case arrested in Tennessee on theft warrant, taken to South Carolina, and held incommunicado. He was questioned for three days for periods as long as 12 hours, not advised of his rights, not told of the murder charge, and denied access to friends and family while being told his mother might be arrested for theft). Justice Jackson dissented in the latter two cases, willing to hold that a confession obtained under lengthy and intensive interrogation should be admitted short of a showing of violence or threats of it and especially if the truthfulness of the confession may be corroborated by independent means. 338 U.S. at 57.

⁸ The term “person of interest” is used by law enforcement officials to refer to a person who has not yet been arrested or accused of crime, but who is still being investigated in a criminal investigation. The police are said to be “interested” in that person. While some terms, like “suspect” and “target” are clearly defined, the term “person of interest” is an informal term that remains undefined by the Department of Justice. To explore this concept, consider the following person of interest definition. **Definition of Person of Interest (Noun)** A person who is “of interest” to law enforcement officials during a criminal investigation. **Origin:** The term was first used at least as early as 1996 to describe Richard A. Jewell, a suspect in the Atlanta Olympic bombings. <<https://legaldictionary.net/>>, retrieved on 2021-10-03.

⁹ Statutes of Canada 2006, Chapter 9, Bill C-2. < <https://www.parl.ca/DocumentViewer/en/39-1/bill/C-2/royal-assent>>, retrieved on 2021-09-01.

¹⁰ E.g., in Turkish CMK 2/h. < <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf>>, retrieved on 2021-10-03

¹¹ *ibid* 2/g

of suspect statements.¹² In 1930s, some jurisdictions (e.g., the U.S.A) authorized the use of third degree (i.e., physical pressure) techniques in interrogations, partially owing to the conviction that interrogators should get tough on criminals since the state was at war with crime. However, in the following years, confessions obtained by physical coercion were deemed to be inadmissible evidence in criminal proceedings.¹³ Nevertheless, physically coercive tactics had not totally seized in suspect interrogations. For instance, in 1970's the City of Chicago has paid out millions of dollars in settlements in relation to Chicago police officers using a wide range of tortures in suspect interrogations.¹⁴ In contemporary justice systems, third degree coercive tactics are clearly not admissible in legal proceedings. Yet, there is still a concern in relation to the practice of psychological trickery and physical coercive tactics in suspect interrogation worldwide. In a 2016 appeal to the U.N. General Assembly, then U.N. Special Rapporteur Jean E. Mendez, voiced out the international apprehension for ill-treatment and coercion in suspect interrogations.¹⁵ In response to this appeal, an expert-led action was initiated "The Mendes Principles: Principles on effective interviewing for investigations and information gathering".¹⁶ In the following part, I will first review the REID model of interrogation as an example of adversarial suspect interview, followed by the presentation of an alternative information gathering model, the PEACE model. Finally, I will critically examine the Mendes principles in light of contemporary research findings.

A. The REID Model

Following a court ruling that deemed the third degree interrogation techniques (e.g., physical violence) inadmissible in the USA¹⁷, experts strived

¹² Aldert Vrij, Christian A. Meissner, Ronald P. Fisher, Saul M. Kassin, Charles A. Morgan, and Steven M. Kleinman, "Psychological Perspectives on Interrogation" in *Perspectives on Psychological Science* [2017] 12(6), 927.

¹³ *Brown v. Mississippi* (1936) , 297 U.S. 278. Syllabus: "Convictions of murder which rest solely upon confessions shown to have been extorted by officers of the State by torture of the accused are void under the due process clause of the Fourteenth Amendment".

¹⁴ Flint G. Taylor, "Chicago Police Torture Scandal: A legal and Political History" in *The CUNY Law Review* [2013]17, 329.

¹⁵ U.N. General Assembly, 71 session, Item 69(b) [2016].
<<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/250/31/PDF/N1625031.pdf?OpenElement>>, retrieved on 2021-09-03.

¹⁶ Association for the Prevention of Torture. <https://www.ap.torture.ch/en/resources/publications/new-principles-effective-interviewing-investigations-and-information>, retrieved on 2021-09-03.

¹⁷ *Brown v. Mississippi* (1936) , 297 U.S. 278. Syllabus: "Convictions of murder which rest solely upon confessions shown to have been extorted by officers of the State by torture of the accused are void under the due process clause of the Fourteenth Amendment".



to develop admissible means to obtain confessions from suspects. In 1962, Reid, a polygrapher from Chicago, and Inbau developed one of the most popular adversarial suspect interrogation training manuals, namely known as the REID.¹⁸ This model is mainly based on psychological coercion and manipulation (i.e., second degree interrogation techniques) that have become very popular in North America, owing to the fact that the investigators were able to get admissible confessions from suspects without resorting to violence.¹⁹ The REID is still popular in North America with many criminal investigators continue utilizing some of the REID techniques in interrogations.²⁰ Therefore, the following section will examine the main assumptions and structure of this model. This REID model includes three stages;

- Gathering evidence in preparation of the interview,
- Implementing the behaviour analysis interview in order to assess deception in statements, and
- Conducting accusatory interrogation to obtain confessions.

As expected, the model does not provide guidance on comprehensive evidence collection methods; however, underlines the importance of getting ready for suspect interrogations by obtaining the details of the criminal investigation. The training manual encourages investigators begin the Behaviour Analysis Interview only after they are well informed on a given criminal investigation.²¹

1. The Behaviour Analysis Interview (the BAI)²²

The BAI is a nonaccusatory phase in the REID model.²³ According to the training manual “*This (nonaccusatory style) should be the case even when the investigator has clear reason to believe that the suspect is involved in the offence or has lied to him*”.²⁴ In this soft approach, investigators are suggested to establish a better rapport with suspects, which is expected to be instrumental in an interrogation that might follow the BAI. Another purpose of the BAI is to gather relevant investigative and behavioral information. Thus, this protocol includes three types of questions; (I) non-threatening questions, (II) investigative questions, and (III) behaviour provoking questions. Investigators

¹⁸ Fred E. Inbau and John E. Reid, *Criminal Interrogation and Confession*, (Baltimore, Williams & Wilkins Co., 1962).

¹⁹ Vrij, Meissner, Fisher, Kasson, Morgan, and Kleinman, 2017, p. 927.

²⁰ Pozzulo, Bennell, and Forth, 2018, p. 62.

²¹ Fred E. Inbau, John E. Reid, Joseph P. Buckley, and Brian C. Jayne, “Criminal Interrogation and Confessions” (5th ed.), (Jones & Bartlett Learning, 2013), p. 76.

²² Ibid at 153-184.

²³ Inbau & Reid, 1962, p. 57.

²⁴ Inbau, Reid, Buckley, Jayne, 2013, p. 3.

closely observe the suspects' posture, eye contact, facial expression, and word choice for evidence of deception. The BAI may be conducted in various settings, but the ideal environment is an area specifically designated for that purpose. Another important characteristic of the BAI is that it should be free-flowing and comparatively unstructured. Investigator should have specific topics of interest in interviews; however, an interview is mostly led by the response of suspects that facilitate the exploration of unexpected areas. Finally, the BAI should be documented in writing, video, or audio recording. In this phase, the note taking serve several purposes; recording the suspect's responses, slowing down the interview and allowing investigators to closely observe suspects, creating silence between questions that is likely to increase anxiety in guilty suspects.

The main objective of the BAI is to provide investigators clues to assess evidence of deception. For this purpose, investigators ask non-accusatory questions and observe suspects for non-verbal and behavioral evidence of deception. The proponents of the BAI assert that trained investigators can achieve a significantly high accuracy rates at detecting deceptions and consequently they can effectively differentiate between offenders and innocent suspects. In this approach, investigators look for three channels of communication;

- Verbal (i.e., word choice and arrangement of words to convey a message),
- Paralinguistic (i.e., characteristics of speech outside the expressed word), and
- Nonverbal behaviors (i.e., posture, arm and leg movements, and eye contact etc.).²⁵

The manual underlines the importance of adherence to the following five principles in order to increase the probability of deception detection;

- There are no exclusive behaviors related with deception,
- The consistency between three channels of communication must be assessed,
- Paralinguistic and nonverbal behaviors must be examined in relation to verbal message,
- All behaviors throughout the interview should be reviewed, and
- Suspects' normal (i.e., common) behavioral pattern must be established.

The BAI postulates that innocent suspects generally provide lengthy and free flowing accounts, whereas the accounts of guilty suspects are often guarded. Furthermore, innocent suspects express appropriate emotions in

²⁵ Ibid 101-136.



interview in all three communication channels (i.e., verbal, paralinguistic, and nonverbal behaviors) and they are also more realistic in their assessments of the crime. For instance, it is not threatening for them to conclude that the fire next door was an arson. Furthermore, innocent suspects appear as being very concerned during interviews and they are more likely to perceive the process as an opportunity to be exonerated. In relation to verbal behavior, truthful suspects answer questions directly, deny allegations more broadly and offer confident definite responses, whereas guilty suspects are more likely to be more evasive in their answers and suggest specific denials for allegations and offer qualified responses. Assessment of paralinguistic behaviour involves the following assumptions of this model;

- **Response latency:** The time delay between the last word in the question and the first word of suspects will be longer in deceptive suspects compared to truthful suspects,
- **Early response:** Deceptive suspects tend not to repeat early responses, whereas a truthful suspects will be consistent in their early answers,
- **Response length:** Truthful suspects offer longer responses in comparison to deceitful suspects.
- **Response delivery:** Truthful suspects tend to increase his rate and pitch as they describe criminal incidents. On the other hand, deceitful suspects are more likely to talk quietly and relates allegations in a monotone response delivery.
- **Continuity of the response:** Truthful responses are more likely to be spontaneous and free flowing, whereas deceitful responses tend to have *a stop and start flow*.

According to this model, nonverbal behaviors have two sources of origin learned and genetically inherited behaviors. The main assumption is that lying and acts of wrongdoings result in internal anxiety. In addition, mind and body work together in experiencing this high level of anxiety. Investigators observe signs of anxiety in guilty suspects as they are more likely to have a closed and tensed posture, an avoidance of facing investigator, an avoidance of forward leans, and a more static posture. In this model, the BAI is a vital component of the REID model owing to the fact that suspects who are believed to be deceitful in this phase are consequently taken into interrogation.

2. The REID Model of Interrogation

The REID model underlines that interrogation is an accusatory phase in which deceptive suspects are likely to deny the allegations in self-interest unless they are certain that the investigator is convinced of their guilt.²⁶ Therefore,

²⁶ Inbau, Reid, Buckley and Jayne, 2013. p. 157.



investigators are instructed to start and continue the accusatory approach throughout interrogations. This is an active persuasion process, in which an interrogation is commenced only when investigator believes the suspect had been deceitful in a non-confrontational interview. In order to persuade suspects to be truthful, investigators turn to manipulative tactics (e.g., offering moral justification or providing alternative motivations for offences) rather than exclusively asking questions. The training manual highlights that the purpose of an interrogation is not to elicit confession, but to discover the details of the truth. However, the Cambridge Dictionary defines interrogation as “*a process of asking someone a lot of questions for a long time in order to get information, sometimes using threats or violence.*”²⁷ Given that investigators only enter interrogations once they are convinced that suspects had been deceitful and that the only acceptable outcome of interrogations is confession, it is unlikely that the main objective of REID interrogation would be to discover the truth. Also, investigators are instructed not to take any notes until suspect confessed so that they are not distracted from the objective of obtaining confessions in interrogations. Furthermore, research reveals that in active investigations the main objective of investigators is in fact obtaining confessions from suspects.²⁸ It should be noted that the concept of interrogation may have different implications based on different legal contexts. For instance, in Turkish Criminal Procedures an interrogation is defined as a process in which suspects or accused make statements before a presiding judge.²⁹ Also, the presence of legal counsel in suspect interviews facilitates being able to focus on gathering details in investigations rather than focusing on getting confessions from suspects.

According to the REID, guilty suspects can be characterized either as emotional or non-emotional individuals. Emotional people experience a significant amount of remorse, mental agony, or regret for their illegal acts.³⁰ Therefore, the most effective interrogation tactics with emotional offenders is a sympathetic approach (i.e., minimization tactics). That is the expression of moral justification for the commission of the offence. On the other hand, with non-emotional offenders (i.e., no expression of emotional remorse or mental agony), the most effective tactic is built upon a factual analysis approach (i.e., maximization tactics). That is striving to reason with suspects instead of appealing to their emotions by presenting two different alternative charges for

²⁷ Cambridge Dictionary. <https://dictionary.cambridge.org/tr/sözlük/ingilizce/interrogation>, retrieved on 2021-09-02.

²⁸ Vrij, Meissner, Fisher, Kassin, Morgan, and Kleinman, 2017, p. 927.

²⁹ Criminal Procedure Code 2h: “Interrogation: Listening to suspects or accused in relation to criminal investigation or prosecution on allegations by court or presiding judge” (Translation from Turkish) <<https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf>, retrieved on 2021-09-15.

³⁰ Inbau, Reid, Buckley, and Jayne, 2013, p. 185.



the alleged offence and urging them to take responsibility for the lesser charge. The REID model of interrogation framework comprises of the following 9 step procedure;

- i. **Direct Confrontation:** At the start of the interrogation, suspects are made aware of the investigator's confidence in their guilt. This is accomplished by making a direct statement that suspects committed the alleged offences. The investigator should convey his/her confidence to the suspect. That is their verbal, paralinguistic, and body language should communicate their confidence in the suspects' guilt.
- ii. **Theme Development:** Suspects are of course expected not to confess readily. Therefore, following a direct confrontation, investigators begin developing psychological themes in which moral excuses for the commission of the offence or minimizing the moral implications of the criminal act are provided. Alternatively, rationalization for the commission of the offence can be included in this phase. As indicated above, these themes are developed in accordance with whether suspects are perceived to be emotional or non-emotional offenders.
- iii. **Dealing with Denials:** As indicated earlier, the REID model asserts that suspects do not typically confess alleged offences. Consequently, investigators should expect denial of guilt and make it clear that they will not be convinced of these denials unless suspects can present evidence in their innocence. Investigators are instructed to interrupt any statements of denials so that suspects would not get a leverage in interrogations. This phase is likely to result in complications not only for legal reasons, but also for facilitating cognitive biases owing to the fact that investigators are likely to have an increased *confirmation bias tendency* with this approach. That is while suspects are expected to present evidence for their innocence in which investigators are motivated to look for incriminating evidence instead.
- iv. **Overcoming Objections:** Investigators are to differentiate objections from denials. Innocent suspect are more likely to insist on denial alone rather than providing specific objections for the alleged offences. Investigators should turn around objections and use them in their persuasion attempts to convince suspects to provide confession. For instance, a fraud suspect may state that "*I have money and I don't need to steal*". In such case, investigators may express his agreement with suspects and provide moral justification for the offence such as "*I believe that is true, because if you did not give in the brief temptation, you would not have transferred the company money into your account.*"
- v. **Retention of Suspect's Attention:** The worst scenario in interrogations is when investigators are unable to have suspects engaged in conversations.

Without some type of interactions with investigators (e.g., denials or verbalizing non-cooperative attitudes), the likelihood of obtaining confessions is very low. Therefore, investigators should always have suspects psychologically and physically engaged in interrogations. This objective may be achieved by leaning forward, directly facing the suspect, establishing eye contact, encouraging responses, and active listening.

- vi. **Handling the Suspect's Passive Mood:** Some suspects are likely to become passive in interrogations. Similar to the retention of suspect's attention phase, investigators should maintain the active participation of suspects. Facing with passive suspects, investigators may show understating and urge suspects to tell the truth for the sake of their conscience and significant others. This strategy is believed particularly to be effective with emotional suspects.
- vii. **Presenting an Alternative Question:** This step involves providing suspects with two alternative explanations for committing the offence. This can be also described as a face-saving opportunity for suspects that can make it easier for the them to tell the truth. For instance, in a theft charge with emotional suspects, an investigator may ask "*Did you spend the money for partying and alcohol, or did you need it for your family?*" Thus, investigators make it morally easier for the suspect the confess the alleged offence. Presenting an alternative question may also involve alternative charges with non-emotional suspects.
- viii. **Having Suspects Verbally Relate Details of the Offence:** Suspects are also less likely to provide details of their crime, even after confession owing to the fact that psychological impact of accepting full responsibility would be too significant for many. Thus, investigators have to be patient with these individuals, allowing them to provide details of offences at their own pace. While developing corroborative confession, investigators must be vigilant that the details presented by suspects have not been disclosed in questioning process, news media or any other source. The best type of verification would be in the form of new evidence that was unknown prior to the confession. This step also involves prior to interrogation considering the types of independent evidence should be sought in a statement.
- ix. **Converting a Verbal Confession into a Written Confession:** The interrogation process may be described as an endeavor to persuade suspects to tell the full account of the alleged offence (i.e., confess). This is the step where the procedures and legal considerations of transforming a verbal confession into a written confession are taken into account.³¹ This step also decreases the risk of facing retrieved confessions in court.

³¹ Ibid 310.



In North America, the REID model has been utilized in investigative interviews. Some investigators use the full model whereas many others apply only some of the techniques. Kassir and colleagues surveyed 631 police investigators on their interrogation tactics.³² The findings reveal that in relation to REID themes, while 60% of the participants reported appealing to suspect's pride with flattery, no one exaggerated the seriousness of the offence. On the other hand, 80% of the participants confront suspects with evidence of their guilt, whereas less than 5% used a *good cop bad cop strategy*.³³ Since many investigators have been trained to use the REID model, this model has been extensively examined. These studies reveal that there are a number of significant issues associated with this model.

3. Assessment of the REID Model

Manipulative and coercive nature of the REID model have raised some concerns in relation to the validity of this model. One of the main issues relates to the model's capacity of deception detection. As underlined earlier, the REID model of interrogation begins only after investigators discern deceitful suspects from truthful ones in a non-accusatory Behaviour Analysis Interview. Consequently, the training manual focuses on the detection of deception cues in the BAI. However, these cues have not been found to have a discriminative value to distinguish truthful individuals from deceitful ones.³⁴ The REID postulates that guilty suspects would be more anxious in interrogations, compared to those of innocent and that signs of anxiety reveals guilty mind. However, both innocent and guilty suspects are likely to display similar signs of anxiety in interrogations.³⁵ Furthermore, a meta-analysis on 100 studies examining body language signs for deception cues revealed that the results are inconsistent.³⁶ Therefore, there is a practical significant concern with utilizing verbal, paralinguistic, or behavioral cues in recognizing innocent and guilty suspects as recommended by the REID. In other words, the REID model of interrogation can potentially be based on faulty judgements in deception detection.³⁷

³² Saul M. Kassir, Richard A. Leo, Christian A. Meissner, K D. Richman, Lory H. Colwell, Amy-May Leach, and Dana La Fon, "Police interviewing and interrogation: A self-report survey of police practices and beliefs" in *Law and Human Behaviour* [2007], 31, 381.

³³ *Ibid*, 390.

³⁴ Maria Hartwig, Charles F. Bond Jr, "Why do lie-catchers fail? A lens model meta-analysis of human lie judgements" in *Psychological Bulletin*, [2011], 137(4), 643.

³⁵ Aldert Vrij, Ronald Fisher, Samantha Mann, and Sharon Leal, "Detecting deception by manipulating cognitive load" in *Trends in Cognitive Sciences*, [2006], 10(4), 141.

³⁶ Siegfried L. Sporer, Barbara Schwandt, "Paraverbal indicators of deception: A meta-analytic synthesis" in *Applied Cognitive Psychology*, [2006], 20(4), 421.

³⁷ Saul M. Kassir, "The social psychology of false confessions" in *Social Issues and Policy Review*, [2015], 9(1), 25.

Some also raised concerns about using psychological coercive methods in the REID. There are of course procedural protections in place to guard suspects in cases of the transition to the interrogation phase from that of an interview such as Miranda Rights³⁸ in the United States and Charter of Rights and Freedoms in Canada³⁹. In this legal context, statements including confession are only admissible when suspects waive these rights *knowingly* and *voluntarily*.^{40,41} However, the aforementioned psychological manipulations in the REID model (e.g., presenting moral justification, minimization or maximization of allegation, and presenting false evidence etc.) can be so coercive that some individuals may utter false confessions. In fact, some of these confessions were later found to be false, only after the introduction of DNA evidence.⁴² Some individuals are also vulnerable to suggestive interrogations. Archival studies have indicated that juvenile suspects and suspects with intellectual and psychological disabilities are over represented among false confessors.⁴³ In other words, the personal characteristics of suspect (e.g., age, intellectual, or psychological disabilities) can increase the risk of false confessions by making suspects more vulnerable to psychological pressure and manipulation.⁴⁴

Investigator bias is another concern with the REID. Investigators begin interrogation when they are formed an opinion that suspects committed

³⁸ Miranda v. Arizona, 384 U.S. 436 [1966] (Under the Fifth Amendment, any statements that a defendant in custody makes during an interrogation are admissible as evidence at a criminal trial only if law enforcement told the defendant of the right to remain silent and the right to speak with an attorney before the interrogation started, and the rights were either exercised or waived in a knowing, voluntary, and intelligent manner). <https://supreme.justia.com/cases/federal/us/384/436>, retrieved on 2021-09-01.

³⁹ Legal rights 10: Everyone has the right on arrest or detention (a) to be informed promptly of the reasons therefor, (b) to retain and instruct counsel without delay and to be informed of that right; and (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful) <https://publications.gc.ca/collections/Collection/CH37-4-3-2002E.pdf>, retrieved on 2021-09-4.

⁴⁰ Lesley King, Brent Shook, "Peering inside a Canadian interrogation room" in Criminal Justice and Behaviour, [2009], 36(7), 674.

⁴¹ Saul M. Kassin, Gisli H. Gudjonsson, "The psychology of confessions: A review of the Literature and Issues" in Psychological Science in the Public Interest, [2004], 5(2), 33.

⁴² <https://innocenceproject.org/justice-2018> "Sufficient force and coercion will force anyone to crack under pressure, but that doesn't solve crimes." Bryce Benjet, Senior Staff Attorney, retrieved on 2021-09-5.

⁴³ Drizin & Leo, "The problem of false confessions" (footnote 7). S.R. Gross, K. Jacoby, D.J. Matheson, N. Montgomery, & S. Patil, "Exonerations in the United States 1989 through 2003", Journal of Criminal Law & Criminology, vol. 95, No. 2 (2005).

⁴⁴ A. Vrij, Detecting Lies and Deceit: Pitfalls and Opportunities, 2nd ed. (West Sussex, England, John Wiley & Sons, 2011); Vrij et al. "Psychological perspectives on interrogation" (footnote 5); Gudjonsson, The Psychology of False Confessions (footnote 5).



the alleged offences. The major problem with this conviction is that when individuals construct a perception about something prior to entering in a situation, they inadvertently tend to seek out and interpret information in a way that it confirms their initial beliefs (i.e., confirmation bias).⁴⁵ This investigative bias has been found to lead to coercive interrogation strategies that resulted in suspects look guilty to both investigators and other observers, even when they were innocent.⁴⁶ Given that significant potential problems with the REID model of interrogation has been reported, psychologists and investigators strived to develop evidence based investigative interview models. One approach is a non-accusatory investigative interview model that can be conducted not only with suspects but also victims and witnesses to obtain information.⁴⁷ In what follows, the PEACE model of interview is discussed as an example of a non-accusatory investigative interview model.

B. The PEACE Model

In Great Britain, public outrage to miscarriages of justice due to false confessions became a significant factor in modifying investigative interview methods that is followed by the Royal Commission on Criminal Procedure in 1981.⁴⁸ The commission concluded that physical and psychological manipulative techniques used by interrogating investigators produced these miscarriages of justice and that there was a pressing need for developing a non-accusatory model.⁴⁹ In 1984 in response to this finding, the Police and Criminal Evidence Act (PACE)⁵⁰ was created that explicitly restricted the application of psychologically manipulative tactics and mandated that all suspect interviews be audio recorded. In the following years, the PEACE model of interview has been developed by experienced psychologists and detectives working in collaborations.⁵¹ This model may be described as an inquisitorial framework, as opposed to an accusatory approach in conducting investigative interviews.⁵²

⁴⁵ Pozzulo, Bennell, and Forth, 2018, p. 67.

⁴⁶ Carole Hill, Amina Memon, & Peter McGeorge, "The role of confirmation bias in suspect interviews: A systematic evaluation" in *Legal and Criminological Psychology* [2008], 13(2), 357.

⁴⁷ Dave Walsh, Mick King, Andy Griffiths, "Evaluating interviews which search for the truth with suspects: But are investigators' self-assessments of their own skills truthful ones?" in *Psychology Crime and Law*, [2017], 23(7), 1.

⁴⁸ Vrij, Meissner, Fisher, Kassir, Morgan, and Kleinman, 2017, p. 930.

⁴⁹ Barrie Irving, "Police interrogation. A case study of current practice" (London, UK: Her Majesty's Stationery Office 1980), 58.

⁵⁰ Police and Criminal Evidence Act 1984, s 5 <https://www.legislation.gov.uk/ukpga/1984/60/contents>, retrieved on 2021-10-01.

⁵¹ British Psychological Society, "United Nations may recommend PEACE approach" in *The Psychologist*, [2016] 29, 896.

⁵² Christian A. Meissner, & Melissa B. Russano, "The psychology of interrogations and

PEACE is an acronym for five steps in this model; (i) Preparation and Planning, (ii) Engage and Explain, (iii) Account, (iv) Closure, and (v) Evaluation. In the PEACE model, the concept of *interrogation* is replaced with *investigative interview* in line with the main objective of the PEACE that is gathering probative information rather than obtaining confessions. The interviewers are taught to be open-minded with an objective of collecting information, not to focus on detecting deception or use mental coercive tactics in order to manipulated suspects.

1. Structure of the PEACE Model

Planning and Preparation: The first phase of the PEACE focuses on planning and preparation for the interview. Investigators are to create a written plan that outlines the following information:

- In what ways the information obtained from a suspect will assist to the investigation?
- What is already known about suspects (e.g., presence of mental disability and prior history with the police)?
- What are the legal obligations that need to be followed during the interview (e.g., rights to counsel and caution)?
- What are the investigative objectives (e.g., information that need to be checked and facts that need to be established)?

Investigators are also encouraged to make practical arrangements for investigative interviews, including developing a chronology of events, preparing an opening question, establishing an outline on how they will proceed. Lastly, interviews with suspects ideally should not begin until all witnesses and complainants have been spoken to and all available evidence has been gathered.⁵³

Engaging and Explaining: In this phase, investigators engage suspects in conversational approach and explain the interview process. Investigators also try to build rapport by engaging in self-disclosure and acting in a professional and considerate manner in this phase. It needs to be noted that this step is not designed to trick suspects in uttering confession. The main objective is to foster the development of a relationship and atmosphere to facilitate a working

confessions: Research and recommendations” in Canadian Journal of Police & Security Services, [2003] 1(1), 53.

⁵³ Todd W. Barron, “The PEACE model of investigative interviewing: A comparison trained and untrained suspect interviewers” Unpublished MA Thesis, Memorial University of Newfoundland [2017] 25-28. <https://research.library.mun.ca/12911/1/thesis.pdf>, retrieved on 2021-09-25.

alliance.⁵⁴ This objective aligns well with Turkish Criminal Justice Procedures in which suspects have a right to have a legal counsel present in interviews.⁵⁵ Another interrelated objective is to ensure that suspects understand the purpose of investigative interview and their legal rights in the investigation.⁵⁶ Investigators also explain the outline of the interview, including the interview routines (e.g., audio recording and breaks schedules), and expectations (e.g., no rushing or judgements).

Account: Suspects are expected to have a more active role in investigative interviews. The process begins with a yes/no question on whether the suspect committed the alleged offence. If the response is *yes*, the investigator asks open ended follow up questions for a full account of the incident. If the response is *no*, the investigator then asks open-ended questions on various themes including the following;

- The suspect's whereabouts during the incidents;
- Trailer questions that do not include hold-back evidence. This involves information that the suspect and authorities know about;
- Appraising questions, may include hold-back evidence that are evaluated for deception detection. The PEACE model recommends the importance of utilizing content analysis in deception detection instead of behavioral cues. The model specifically underlines not to rely on non-verbal cues for deception detection such as signs of anxiety or stress during the interview.

In this stage, the close ended questions are kept to a minimum. The initial goal is to get an uninterrupted account of the incident. If a free account is not forthcoming, investigators should ask pre-planned open-ended questions to discern the detailed actions of the suspect. Investigator should also actively listen to accounts of incidents and take notes of the points of interest such as other persons, locations, or action that may need to be followed up later in interviews. Each identified points of interest then should be explored in the following structured method:

- **Opening:** Introduction of a point with an open-ended question (i.e., questions starting with tell, explain, define),
- **Probing:** Exploratory questions (who, what, where, when, why, and how), and
- **Summarizing:** Overview of the information gathered on a topic.

⁵⁴ Roger Collins, Robyn A. Lincoln, & Mark Frank, "The effect of rapport in forensic interviewing" in *Psychiatry Psychology and Law* [2002] 9(1), 69.

⁵⁵ Turkish Criminal Code 147(c)

⁵⁶ Joseph Eastwood, & Brent Snook, "The effect of listenability factors on the comprehension of police cautions" in *Law and Human Behavior* [2012] 36(3), 83.

If an investigator identifies inconsistent points, follow up questions are posed not in an aggressive manner, but rather in a manner of clarification seeking task. Investigators are also instructed to recognize resistance and directed not engage in arguments with suspects. Finally, investigators are not allowed to lie to suspects. This model recognizes the inevitable challenge that some suspects may not be willing to provide any statement or cooperate with investigators; however, officers are not allowed to use manipulative tactics or lie to suspects.

Closure and Evaluating: Once investigators ask all their questions, they summarize the main points of the interview, thus, provide suspects with an opportunity to correct, modify or add information. Officers also consider the impact of new information on the investigation and whether this information is consistent or inconsistent with all of the available evidence. They are to maintain professional conduct throughout the interview and assess the probative value of statements based on *context analysis* and *available evidence*.

2. Assessment of the PEACE

The PEACE model of investigative interview is fundamentally different from manipulative or coercive accusatory models owing to the approach that it promotes the engagement of hypothesis testing method, as appose to focusing on obtaining confessions which is likely to increase the risk of high confirmation bias among investigators. Also, the PEACE adapts a fact finding perspective, essentially based on building rapport with suspects, as oppose to a coercive and manipulative evaluation; hence, the concept of interrogation is replaced by that of interview. Thus, this strategy may mitigate the negative effects of confirmation bias in investigative interviews. Some policy makers and practitioners have argued that soft approaches based on rapport building with suspects that categorically dismiss interrogation tactics may not be effective with all hardcore criminals (e.g., terrorism suspect).⁵⁷ This is a valid concern; however, preliminary research suggest that the soft approaches can be effective even with violent offenders. Alison and colleagues assessed the five aspects of rapport building process, namely, (i) autonomy, (ii) acceptance, (iii) adaptation, (iv) evocation, and (v) empathy in 418 interviews with 29 terrorism suspects in the U.K.⁵⁸ The findings indicate that conversational rapport and adaptive interpersonal skills are positively correlated with both a significant reduction in resistance strategies by the suspects and an increase in

⁵⁷ Vrij, Meissner, Fisher, Kassir, Morgan, and Kleinman, 2017, p. 931

⁵⁸ Laurance J. Alison, Emily Alison, Geraldine Noone, Stenatis Elntib, Paul Christiansen, "Why tough tactics fail and rapport gets results: Observing rapport based interpersonal techniques (ORBIT) to generate useful information from terrorists" in *Psychology Public Policy and Law* [2013] 19(4), 411.

investigative information, whereas accusatory strategies associated with the increased use of counter intelligence tactics by the suspects.⁵⁹

False confession is another important issue in criminal justice systems.⁶⁰ Accusatory interrogation strategies have been shown to significantly associate with false confessions.⁶¹ Actually, the exclusion of coercive and manipulative techniques may decrease the likelihood of obtaining false confessions investigative interviews. However, a legitimate question is “does the PEACE really work in criminal investigations?” There has not been systematic research examining effectiveness of the PEACE; however, preliminary findings are promising. In a meta-analytic research, for instance, Meissner and colleagues found that the PEACE not only reduces the risk of obtaining false confessions, but also increases the amount of accurate information revealed in interviews.⁶² Field studies also indicate that when the PEACE is properly implemented, suspects are more likely to disclose complete accounts of incidents.⁶³ In another novel study, researchers interview 83 sexual offenders in relation to their experiences in interrogations.⁶⁴ The findings suggest that interviews that do not use coercive or manipulative techniques were associated with confessions, whereas interrogations viewed as judgmental and accusatory were more likely to elicit resistance and denials. Also, structured questioning protocols are used in inquisitory approaches, as oppose to accusatory methods, enhance the elicitation of verbal diagnostic cues to deceit.⁶⁵ In accordance with research findings, calls have been made by researchers to replace interrogation strategies in different countries with the PEACE model of interview (e.g., Canada⁶⁶ and the U.S.A⁶⁷).

⁵⁹ Ibid, 424.

⁶⁰ Kasson, and Gudjonsson, 2004, 33.

⁶¹ Christian A. Meissner, Allison D. Redlich, Stephen Michael, Jacqueline R. Evans, Catherine R. Camilletti, Sujeeta Bhatt, Susan Brandon “Accusatorial and information gathering interrogation methods and their effects on true and false confessions: a meta analytic review” in *Journal of Experimental Criminology* [2014], 10(4), 459.

⁶² Ibid, 459.

⁶³ Dave Walsh, & Ray Bull, “What really is effective in interviews with suspects? A study comparing interview skills against interviewing outcomes” in *Legal and Criminological Psychology*, [2010] 15, 305.

⁶⁴ Ulf Holmberg, & Sven Christianson, “Murderers’ and sexual offenders’ experiences of police interviews and their inclination to admit or deny crimes” in *Behavioral Sciences & the Law* [2002], 20(1-2), 31.

⁶⁵ Aldert Vrij, & Par Anders Granhag “Interviewing to detect deception” in S.A: Christianson (ed), *Offenders’ memories of violent crimes* (John Wiley & Sons Ltd. 2007), 279-304.

⁶⁶ Brent Snook, Joseph Eastwood, and Todd W. Barron “The next stage in the evaluation of interrogations: The PEACE model” in *Canadian Criminal Law Review* [2014], 18(2) 219.

⁶⁷ Vrij, Meissner, Fisher, Kasson, Morgan, and Kleinman, 2017, 926.

3. Turkish Procedural Regulations and The PEACE Model

As discussed above psychological research on suspect interviewing have made significant contributions to the field. Social and legal context in a given jurisdiction is paramount in relation to the applicability of these contributions. The PEACE model has been developed in an adversarial justice system (i.e., England and Wales). Given that legal regulations may differ in various justice system, the model needs to be examined and tested to evaluate whether it can effectively function in Türkiye. In this section, I will briefly examine the feasibility of the PEACE model in the Turkish Criminal Justice Context.

In Turkish Criminal Justice System, suspect interview and interrogation is regulated by The Criminal Procedure Code (5271).⁶⁸ This procedure provides a legal framework for admissibility of suspect and accused statements. The procedural code defines a suspect as a person who is “*under suspicion of committing criminal act during a [criminal] investigation*” whereas accused is defined as a person who is “*under suspicion of committing criminal act during a [criminal] prosecution until a court judgement is rendered.*”⁶⁹ The distinction between suspect interview and interrogation is also important since the concept of interrogation implies a focus on obtaining confessions in adversarial justice systems. Turkish Criminal Procedure Code 5271 (2) defines interview as a process of “*the listening of a suspect by law enforcement or prosecutor in relation to alleged offences in a criminal investigation.*” Whereas interrogation is defined as a process of “*the listening of a suspect by a judge or court during investigation or prosecution in relation to alleged offences*”. In both definitions there is an underlined focus on listening to suspects as well as accused with no expressed objective of obtaining confessions. These definitions clearly provide a practical framework for the “Account” phase of the PEACE model, owing to the fact that there is no emphasis on getting confession, but the objective is obtaining the information from suspects and accused. The only information suspects are legally required to provide is to state their identity.⁷⁰ The question is how we can operationalize the process of *listening suspects* to facilitate the process of obtaining admissible information from them. The PEACE model may be instrumental in refining the process of *listening suspects* in interviews by providing the aforementioned operational definitions of the process.

The PEACE underlines the importance of hypothesis testing process in order to avoid *confirmation bias* tendencies of investigators. As indicated above, this objective aligns well with Turkish Criminal Justice Procedures in which suspects have a right to have a legal counsel present during interviews

⁶⁸ Turkish Code of Criminal Procedure Code 5271(147-148). <<https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf>>, retrieved on 2021-09-03.

⁶⁹ Ibid, item 2 (a, b)

⁷⁰ Ibid, item 147 (a, b, c)



(this is not the case in adversarial justice systems such as Canada and USA) and further, interrogations take place in a court setting or carried out by a judge.⁷¹ This regulation also facilitates the prevention of physical or psychological coercion in interviews or interrogations. Furthermore, the Code 5271 (148) explicitly prohibits any kind of manipulation or coercion during an interview and interrogation, including physical or psychological coercion and illicit promises, and specifies that any evidence obtained by these prohibited methods may not be used as evidence in court.⁷²

As discussed earlier, suspects interviews and interrogations are risky processes that call for strong regulations to prevent coercive practices in an attempt to obtain confessions or probative evidence. At times of crisis people's cognitive and emotional capacities are compromised and consequently they may not be able to effectively process new information. When charged or being accused of a criminal offence, a suspect or an accused may not be able to process information and understand their rights and legal obligations.⁷³ In relation to suspect interviews, Turkish Criminal Procedure Code provides suspects with an opportunity to have a legal counsel present (i.e., a professional who can advocate for suspects)⁷⁴ and submissions obtained without the presence of a defense counsel may not be used as evidence unless confirmed as accurate statement by suspects in court.⁷⁵ This procedure provides suspects with an option to give a statement without presence of a defense counsel, but also protects them from legal ramifications in court. It needs to be noted that Case Law of Turkish Court of Cessation confirmed this in a judgement by excluding the statement of a suspect that suspect recanted in court.⁷⁶

⁷¹ Turkish Criminal Procedure Code 147(c)

⁷² Procedures prohibited during the interview and interrogation Code 148 (1) The submissions of the suspect or accused shall be stemming from his own free will. Any bodily or mental intervention that would impair the free will, such as misconduct, torture, administering medicines or drugs, exhausting, falsification, physical coercion or threatening, using certain equipment, is forbidden. (2) Any advantage that would be against the law shall not be promised. (3) Submissions obtained through the forbidden procedures shall not be used as evidence, even if the individual had consented. https://sherloc.unodc.org/cld/uploads/res/document/tur/2005/turkish_criminal_procedure_code_html/2014_Criminal_Procedure_Code.pdf, retrieved on 2021-09-03.

⁷³ Eastwood and Snook, (2012), 85.

⁷⁴ Turkish Criminal Procedure Code 147(c)

⁷⁵ Turkish Criminal Procedure Code 148(4)

⁷⁶ Turkish Court of Cessation, Division (4), 2020/10632E., 2020/18317K "... in this incident, however the suspect admitted his defamatory remarks to the complainant in this statement to the law enforcement officers, owing to the fact that this statement is not taken in the presence of a defense counsel and that the suspect did not confirm this statement in front of a principle court, his statement shall not be read in front of court and shall not be admitted as evidence..." <<https://karararama.yargitay.gov.tr>>

As discussed earlier in England and Wales, suspects do not have a right to have a defense lawyer present during statements which, prior to the PEACE model, have resulted in miscarriages of justice that created a public outrage.⁷⁷ The PEACE model technically may not fit in Turkish Criminal Justice System, but in principle it can provide a general framework on improving the effectiveness of suspect interviews and interrogations. The PEACE model has two main objectives: (i) to prevent practices of physical and psychological coercion in suspect interviews and (ii) to facilitate information gathering process during investigations. The current procedures in Türkiye (e.g., requirement of a legal counsel in interviews and conducting interrogations in a court setting or by a judge) appear to provide effective procedural regulations in preventing the admission of evidence, obtained by coercive methods in suspect interviews. However, evidence based inquisitory interview methods such as the PEACE model may facilitate to effective *listening* of suspects in criminal investigations and prosecutions. In this context, effective listening may be operationally defined as the most legally appropriate and effective way to listen suspects in relation to their capability, opportunity, motivation and PLAT⁷⁸ (people, location, action, and temporal) in Türkiye or elsewhere. This calls for effective listening and rapport building with suspects which is extensively discussed elsewhere.⁷⁹

The use of coercive and manipulative tactics in criminal investigations around the world is an international concern that has been criticized by the U.N. In 2016, then UN Special Rapporteur on Torture, Juan Mendez who voiced out an international concern for ill-treatment and coercion in suspect interviews.⁸⁰ As a result of this appeal, an expert-led action was initiated “The Mendez Principles: Principles on effective interviewing for investigations and information gathering”.⁸¹ An examination of the operationalization of the Mendez Principles in line with current research and best practices around the globe is significant as it can provide practitioners with perspectives on the implementation of effective and humane interview methods.

⁷⁷ Vrij, Meissner, Fisher, Kassin, Morgan, and Kleinman, 2017, p. 900

⁷⁸ PLAT is coined by Kerry Marlow of South Wales Police as a mnemonic

⁷⁹ Lawrence J. Alison, Emily Alison, Neil Shortland, Frances Surmon-Bohr, “ORBIT: The Science of Rapport-Based Interviewing for Law Enforcement, Security, and Military”. (Oxford University Press 2020).

⁸⁰ U.N. General Assembly, 71 session, Item 69(b) [2016].
<<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/250/31/PDF/N1625031.pdf?OpenElement>>, retrieved on 2021-09-03.

⁸¹ Association for the Prevention of Torture (2021). <https://www.apr.ch/en/resources/publications/new-principles-effective-interviewing-investigations-and-information>, retrieved on 2021-09-03.



C. The Mendez Principles: Principles on Effective Interviewing for Investigations and Information Gathering⁸²

The Mendez Principles are drafted by 80 experts from over 40 countries. These experts have particularly underlined the extensive body of scientific research indicating that non-coercive and rapport based interview methods are more effective in comparison to accusatory models. In this report, an investigative interview is defined as “*a structured conversation where one person (the ‘interviewer’) seeks to gather information from another (the ‘interviewee’) as part of any investigation or intelligence operation. The objective is to obtain accurate and reliable information while respecting human rights; eliciting facts is the aim, not a confession.*”⁸³ This definition has important implications for criminal investigations owing to the fact that it underlines the significance of respecting human rights while seeking to obtain probative information. Another critical implication is that the main aim of investigative interview is specified as eliciting relevant facts rather than a confession. The Mendez principles also recognize that despite contrary evidence stemming from applied research and practice, there is still a widespread misconception that manipulative and accusatory techniques are effective in interviews. It needs to be underlined that in this framework torture and ill treatments include physical as well as psychological manipulations and coercive tactics. The Mendez Principles highlight the practical need to review evidence based methods and share good practices among experts and practitioners in investigative interviews. In line with this objective, in the following part Mendez Principles are discussed in relation to promoting evidence based models as well as operational definitions of these principles in investigative interview.

1. Foundations: Effective Interviewing is Instructed by Science, Law, and Ethics

Psychological research on false confessions reveal that coercive techniques are likely to increase resistance on the part of the suspect and, if continued, may increase the risk of getting false information and even false confessions in investigative interviews.⁸⁴ Also, coercive tactics are likely to inhibit individuals’ memory retrieval capacity⁸⁵ that in turn decrease the quality of

⁸² Ibid, 1.

⁸³ Ibid, 1.

⁸⁴ Gisli H. Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* (Hoboken, NJ, John Wiley & Sons, 2018); Vrij, Meissner, Kassin, Morgan, Fisher, & Kleinman, 2017; S. O’Mara, *Why Torture Doesn’t Work: The Neuroscience of Interrogation* (Cambridge, Harvard University Press, 2015); S.M. Kassin, S.A. Drizin, T. Grisso, Gisli H. Gudjonsson, R.A. Leo, & A.D. Redlich, “Police-induced confessions: risk factors and recommendations” *Law & Human Behavior*, vol. 34, No. 1 (February 2010).

⁸⁵ O’Mara, *Why Torture Doesn’t Work* (footnote 5); C.A. Morgan III, S. Southwick, G.

episodic memories of suspects. However, coercive strategies (e.g., the REID model) are still utilized in criminal investigations around the world. Given that policy makers and practitioners must value evidence based methods in general and that psychologically coercive tactics have been found to be both ineffective and detrimental by aforementioned research and archival data (e.g., increasing the likelihood of false confessions and decreasing the quality of recollection), current investigative interview models must be based on empirical findings. The PEACE model of interview appears to be a viable alternative to intimidating interrogation models, owing to the fact that ceasing the use of coercive tactics does not reduce the number of confessions obtained in investigative interviews.⁸⁶ It needs to be noted that there has not been substantial research supporting the effectiveness of the PEACE mode in various criminal justice systems; however, preliminary findings on the effectiveness of soft approaches are promising. This paper argues that the dissemination of these findings among decision makers and practitioners can promote the implementation of evidence based interview methods.

This principle also highlights the importance of forming effective interviewing tactics (i.e., operational definitions of the principles) in international human rights law and standards.⁸⁷ Few criminal justice systems, including Türkiye, grant suspects with a right to have a defense attorney during interrogations or investigative interviews. In Turkish Criminal Justice proceedings, suspect statements in investigative interviews are admissible in court with a condition that these statements are given in the presence of a defense attorney or the suspects confirm these statements as accurate before a judge or in a presiding court.⁸⁸ This standard in relation to admissible suspect statements in criminal investigations ensures law enforcement practices are more likely to be in line with international human rights law and standards. However, as indicated earlier, such high standards are not available in all justice systems and the standard on admissibility of suspects statements vary

Steffian, G.A. Hazlett, & E.F. Loftus, "Misinformation can influence memory for recently experienced, highly stressful events", *International Journal of Law and Psychiatry*, vol. 36, No. 1 (January/February 2013); K. Young, W. Drevets, J. Schulkin, K. Erickson "Dose dependent effects of hydrocortisone infusion on autobiographical memory recall", *Behavioral Neuroscience*, vol. 125, No. 5 (October 2011).

⁸⁶ Meissner and Russano, 2003, p. 53.

⁸⁷ Particularly the Universal Declaration of Human Rights (UDHR), General Assembly resolution 217 A (III) of 10 December 1948; the International Covenant on Civil and Political Rights (ICCPR), General Assembly Resolution 2200 A (XXI), of 16 December 1966.

⁸⁸ Turkish Justice Criminal Proceedings, Statute 5271, item 148(4) "Statements taken by investigators without a presence of defense attorney are not admissible in court unless confirmed as accurate by suspects or accused before a judge or presiding court".

among states. There are also concerns that suspects may not fully comprehend their rights in criminal investigations. Therefore, a systematic assessment on the effectiveness of applicable policies ensuring suspect interview practices are in line with international human rights law and standards is a must.

2. Practice: Effective Interviewing is a Comprehensive Process for Gathering Accurate and Reliable Information while Implementing Associated Legal Safeguard

Investigative interview is a process, rather than a discreet event, which commences as soon as a person is identified as a suspect and continues throughout the completion of interviews in criminal investigations. Thus, the interactions with suspects prior, during and after interviews are critical stages with respect to the integrity of the process. This includes preliminary information gathering step on the suspect, as well as physical (e.g., size and design of holding cells) and social (e.g., interactions with others suspects and investigators) settings of the environment where interview takes place. Moreover, investigative interviews are integrative part in comprehensive information gathering efforts in criminal investigations. Therefore, both coercive and soft interview models underline the importance of gathering evidence and speaking with witnesses prior to suspect interviews. Practical inconsistencies between adversarial and soft models in gathering accurate and reliable information stem from the fact that coercive techniques focus on obtaining confessions and confirmatory information from the suspects. In fact, the REID training manual instructs investigators to have an open mind in interviews; however, the aforementioned nine interrogative techniques emphasize the importance of obtaining confessions from suspects once investigators are convinced on their guilt, rather than gathering accurate and reliable information. This approach practically minimize the legal rights of suspects to remain silent while facing criminal allegations. On the other hand, as a soft interview model, the PEACE techniques involve continuous hypothesis testing approach that is more likely to promote a comprehensive perspective, in which there is a focus on gathering admissible evidence in criminal proceedings. This principle also underlines the importance of building rapport with suspects prior and during the interview. Adversarial models also highlight the importance of building rapport with suspects; however, with an objective of obtaining confessions from them. The focus on obtaining confession is actually likely to impede the rapport building process with suspects. Whereas, the PEACE model utilizes the rapport building strategies with a different objective that is facilitating episodic memory of suspects, thus, gathering as detailed information as practicable.⁸⁹ This aim may not be fulfilled with people who remain silent during interviews. Yet, it is more

⁸⁹ Alison, Alison, Noone, Elntib, 2013, p. 411.

likely to assist individuals with the recollection of events who are willing to provide statements.

3. Vulnerabilities: Effective Interviewing Requires Identifying and Addressing the Needs of Interviewees in Situations of Vulnerability

Suspects may also have vulnerabilities in relation to either situational or individual differences. Firstly, all suspects involve inherently uneven balance of power with investigators (i.e., situational factors). Moreover, individual vulnerabilities of suspect including young age, difficulties with communication (e.g., language barrier), intellectual or physical disabilities can also play deteriorating roles. For instance, in Turkish criminal justice system, children who are suspected of a criminal by virtue of age is defined as “children who are led to committing an offence”.⁹⁰ Given that situational and individuals vulnerabilities of suspects need to be taken into account in criminal proceedings, this principle underlines the importance of implementing enhanced protections designed to address needs and legal rights of vulnerable suspects in criminal investigation. Significant concerns exist on using psychological coercive methods in the REID in relation to both situational and individual vulnerabilities of suspects. There are of course legal protections in place to guard suspects in adversarial interrogations such as Miranda Rights⁹¹ in the United States and Charter of Rights and Freedoms in Canada.⁹² In this legal context, statements including confession are only admissible when suspects waive these rights *knowingly*⁹³ and *voluntarily*.⁹⁴ However, the aforementioned psychological manipulations in the REID model (e.g., presenting moral

⁹⁰ Child Protection Act (Türkiye), Number 5395, Item 3(2) **Child led to an offence**: “*A child who is under investigation or prosecution for allegedly committing an offence as described in statutes or a child who is convicted an offence facing judicatory security sanctions.*” <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5395&MevzuatTur=1&MevzuatTertip=5>, retrieved on 2022-01-30.

⁹¹ *Miranda v. Arizona*, 384 U.S. 436 [1966] (Under the Fifth Amendment, any statements that a defendant in custody makes during an interrogation are admissible as evidence at a criminal trial only if law enforcement told the defendant of the right to remain silent and the right to speak with an attorney before the interrogation started, and the rights were either exercised or waived in a knowing, voluntary, and intelligent manner). <https://supreme.justia.com/cases/federal/us/384/436>, retrieved on 2021-09-01.

⁹² Charter of Rights and Freedoms (Canada), **Legal rights 10**: Everyone has the right on arrest or detention (a) to be informed promptly of the reasons therefor, (b) to retain and instruct counsel without delay and to be informed of that right; and (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful) <https://publications.gc.ca/collections/Collection/CH37-4-3-2002E.pdf>, retrieved on 2021-09-4.

⁹³ Lesley King, Brent Shook, “Peering inside a Canadian interrogation room” in *Criminal Justice and Behaviour*, [2009], 36(7), 674.

⁹⁴ Kassir and Gudjonsson, 2004, p. 33.



justification, and presenting false evidence etc.) can be so coercive that some suspects are likely to utter false confessions. Research findings show that some individuals are more susceptible to suggestive interrogations, owing to their specific vulnerabilities.⁹⁵ That is certain characteristics of suspects (e.g., age, intellectual, or psychological disabilities) increase their vulnerability in adversarial interrogation to provide self-incriminating evidence even false confessions. For instance, juveniles and suspects with intellectual and psychological disabilities have been found to be over represented among false confessors.⁹⁶ This is a particularly significant concern that calls for a decisive legal action in ensuring protections of individuals in relation to both situational and individual vulnerabilities in criminal investigations. In light of the above-mentioned evidence, this paper maintains that the REID model of interrogations does not fit in legal and psychological framework to effectively address these vulnerabilities whereas soft models can provide additional protective factors.

4. Training: Effective Interviewing is a Professional Undertaking that Requires Specific Training

Around the world, many investigators who are in charge of suspect interviews do not receive a formal training or receive interrogation training that promote psychological coercion strategies in order to secure confessions from suspects.⁹⁷ This is a noteworthy obstacle in relation to ensuring current interview practices are kept in line with evidence based models. Conceptual and practical investigative interview training can fulfill important roles in promoting institutional change towards current findings in the literature. In other words, trainings on soft approach of investigative interview may facilitate adaptation of open minded of strategies via basic and in-service advanced training modules for investigators and prosecutors. Also, ongoing training and experience sharing activities at both national and international levels should be a part of professional undertaking of effective interviewing. This paper suggest that the PEACE model provides us with an appropriate framework in developing specific investigative interview models for various justice systems; however, given that this model was developed in the UK (i.e., adversarial justice system), the adaptation of the PEACE requires a systematic review in accordance with a given legal framework (e.g., inquisitory justice system).

⁹⁵ Aldert. Vrij, *Detecting Lies and Deceit: Pitfalls and Opportunities*, 2nd ed. (West Sussex, England, John Wiley & Sons, 2011); Vrij et al. "Psychological perspectives on interrogation" (footnote 5); Gudjonsson, *The Psychology of False Confessions* (footnote 5).

⁹⁶ Drizin & Leo, "The problem of false confessions" (footnote 7). S.R. Gross, K. Jacoby, D.J. Matheson, N. Montgomery, & S. Patil, "Exonerations in the United States 1989 through 2003", *Journal of Criminal Law & Criminology*, vol. 95, No. 2 (2005).

⁹⁷ Inbau, Reid, Buckley, and Jayne, 2013, p. 87.

5. Accountability: Effective Interviewing Requires Transparent and Accountable Institutions

Judicial and law enforcement authorities play a crucial role in preventing physical and psychological coercion in investigative interviews. Accordingly, judicial authorities are required by law to keep the records of current rules, methods, and practices with regards to investigative interviews.⁹⁸ Based on this requirement, investigative authorities are ultimately responsible for adopting structured procedures and the code of conducts to establish standards for investigators conducting interviews. This is particularly related to operational records of interviews. In this framework, the best type of investigative interview evidence would be a video and audio recording of the process, in which the actions of both suspects and investigators could later be verified. Given the current technological developments such as widely available body worn camera technologies, the video and audio recording of investigative interviews can be conducted even in the field. This transparency would be particularly functional in evaluating the admissibility of these statements in court proceedings as well as maintaining public confidence in legal institutions. External oversight bodies (e.g., Ombudsperson and Human Rights and Equity Institution) can also play a critical role in maintaining accountability. These external bodies should be authorized to have a confidential contact with any individual in custody without fear of reprisals, provided that this oversight does not compromise security and integrity of criminal investigations.

In relation to the accountability principle, the accusatory interrogation models do not appear to be promoting transparency and accountability at institutional as such coercive practices are likely to generate toxic environments in which the exclusive focus is on obtaining confessions from suspects. This perspective in turn facilitate lack of accountability and ill treatments among practitioners. On the other hand, inquisitory models can be relatively easily modified to promote accountability and transparency as the measurement of success is not related to confessions but information gathering process.

6. Implementation: The Implementation of Effective Interviewing Requires Robust National Measures

The implementation principle recognizes that effective interview strategies require vigorous local measures and operational definition of processes. In this framework, states need to adopt suitable legal, policy, regulatory and institutional strategies. Investigative interview techniques should be based on empirical findings, archival research, and good practices. Effective interviewing techniques should also be protected in legal procedures. The prohibition of

⁹⁸ Art. 11 of the UNCAT; see also A/HRC/RES/31/31, paras. 11-12; A/HRC/RES/46/15, para. 10.

accusatory interrogation models is key to promote evidence based inquisitory interview techniques. As per international legal requirement, states must hold accountable those responsible for coercion and abuse.⁹⁹ The implementation of effective interviewing essentially require operational definitions of soft model strategies where applicable tactics can be objectively observed, measured, and repeated by practitioners.

CONCLUSION

Investigative interviewing is an important process in criminal investigations in which officers are potentially able to pursue a number of different objectives. Some strive to obtain a confession, detect lies, assess the reliability of statements, while others attempt to facilitate recollection of incidents, or build rapport with suspects. This paper examined contributions of psychological research and findings in refining effective investigative interviewing by comparing two widely practices suspect interview models, the REID (accusatory model of interrogation) and the PEACE (inquisitory model of interview). It needs to be noted that there are many other inquisitory investigative model such as ORBIT.¹⁰⁰ However, this paper comparatively examined the PEACE and the REID models in order to present systematic findings. The initial perceived effectiveness of the REID model related to its success in generating confessions in criminal investigations without resorting physical violence. The initial promise, however, faded away as significant number of these confessions were confirmed to be false. Consequently, the REID model was criticized for implementing psychologically coercive techniques as well as increasing confirmation bias of investigators. Following these findings, a number of soft inquisitory (i.e., soft) models have been developed around the globe. For instance, partly owing to public reactions to miscarriage of justice in the UK in adversarial interrogations, the PEACE model was developed by a team of experts including psychologists and police officers. As an inquisitory investigative interview model, the PEACE aims to facilitate information gathering process in suspect interviews without focusing on obtaining confessions from suspects. Furthermore, according to the PEACE model, deception detection and reliability of statements are assessment with content analysis rather than relying on the so-called behavioral deception clues.

⁹⁹ Art. 15 of the UNCAT; A/HRC/RES/31/31, para. 13; A/HRC/RES/46/15, para. 22; A/HRC/25/60, para. 68; A/71/298/, para. 100 (footnote 3) in Association for the Prevention of Torture (2021), page 41. <https://www.ap.t.ch/en/resources/publications/new-principles-effective-interviewing-investigations-and-information>

¹⁰⁰ Lawrence J. Alison, Emily Alison, Neil Shortland, Frances Surmon-Bohr, "ORBIT: The Science of Rapport-Based Interviewing for Law Enforcement, Security, and Military". (Oxford University Press 2020)

Many aspects of investigative interviewing involve mental processes. While investigators construct judgements on the veracity of allegations and strive to persuade suspects to cooperate, the accounts of suspects involve memory limits, cognitive biases, recollection cues, and self-preservation motivation. These mental processes have been extensively studied in various sub-fields of psychology. For instance, while cognitive psychology focuses on memory recollection processes, social psychological research examines the process of rapport building and interpersonal relationships. Therefore, it is imperative to build a bridge between legal authorities and psychologists to investigate applicability of these findings in a given jurisdiction. As reviewed earlier, empirical evidence suggests that even with high value detainees (e.g., terrorist suspects) coercive techniques are not effective in comparison to evidence based inquisitory approach. However, we do not appear to learn the lessons over time. For example, as revealed by Lord Parker Inquiry¹⁰¹ the infamous *Five Techniques* (hooding, sleep deprivation, food deprivation, white noise, and stress positions) were first developed in Kenya in 1950s by the British¹⁰². Such inhumane tactics are not only clear violation of Human Rights and democratic values but also do not consistently yield actionable intelligence or admissible evidence in court. Nevertheless, similar techniques have still been implemented around the world, including during the war against terrorism. These robust (i.e., coercive) techniques feed violent radical propaganda and compromise international and domestic reputation. It needs to be underlined that there may be underlying psychological assumptions to believe coercive tactics should be used with criminal suspects, particularly with high value detainees. For instance, according to “fundamental attribution error” postulates that we tend to attribute our own behaviors to environmental factors, whereas behaviors of others are often believed to be driven by internal forces and are less impacted by environmental variables.¹⁰³ Interviewers who are making fundamental attribution error are more likely to think that suspects’ lack of cooperation are not influenced by their coercive tactics (social/environmental variable) but rather by internal forces (e.g., violent ideology, free will). Consequently, interviewers are more likely to resort to adversarial tactics to break the internal forces of suspects in order to elicit information from them.

¹⁰¹ “Report of the Committee of Privy Counsellors appointed to consider authorized procedures for the interrogation of persons suspected of terrorism” Chairman Lord Parker of Waddington (1972)

¹⁰² Lawrence J. Alison, Emily Alison, Neil Shortland, Frances Surmon-Bohr, “ORBIT: The Science of Rapport-Based Interviewing for Law Enforcement, Security, and Military”. (Oxford University Press 2020) p. 123.

¹⁰³ Gibert Harman, Moral Philosophy Meets Social Psychology: Virtue Ethics and the Fundamental Attribution Error, in *Proceedings of the Aristotelian Society* [1999], 315-331.

Inquisitory investigative interview models mainly rely on building a rapport with suspects in an attempt to generate reliable information. Empirical evidence support the assumption in fact rapport building is essential factor in both increasing the amount of information and reliability in investigations.¹⁰⁴ This is of course not to suggest that rapport building will generate reliable information in every interviews. Some suspects use various counter intelligence tactics (e.g., discussion unrelated topic, providing well-known information, silence, scripted responses, claiming lack of memory). The use of counter intelligence tactics may be reduced by rapport building approach, but some offenders may remain silent and not indulge in any information regardless of the investigators attempts to generate rapport with them. However, this is still an important outcome as their rights to remain silent would have been respected in such inquisitory interview.

Investigative interview practices are regulated by both national and international human rights regulations as stipulated by United Nations (UN) covenants, principles, and standers.¹⁰⁵ In conclusion, this paper argues that investigative interview models based on accusatory approaches and unstructured methods are far from fulfilling these objectives, whereas inquisitory models have been found to be very promising¹⁰⁶ In this framework, research findings show that inquisitory models are more functional in assessing reliability and accuracy of statements, detecting lies, increasing witness and suspect cooperation with officials, and facilitating the recollection of suspects.¹⁰⁷ The underlying assumptions of inquisitory models are also in line with the Mendes principles. For instance, the objective of suspect interview is to gather admissible evidence and facilitate the recollection incidents without resorting physical or psychological coercive techniques. However, inquisitory models and the Mendes principles can only provide a general framework for investigative interview practices based on psychological findings. The inquisitory techniques in line with the Mendes principles should be pinpointed (i.e., operationally defined) by multidisciplinary teams, including legal experts, practitioners, and psychologists in a given justice system. We appear to be heading in the right direction for emphasizing the importance of rapport

¹⁰⁴ Alison, Alison, Shortland, Surmon-Bohr, 2020), p. 125.

¹⁰⁵ The International Covenant on Civil and Political Rights (ICCPR) Article 14, Clause 3 “In the determination of any criminal charge against him, everyone shall be entitled . . . : (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him” (UN General Assembly, 1966). A similar statement is made in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN General Assembly, 1988)

¹⁰⁶ Ray Bull, “Roar of PEACE” in Ray Bull and Iris Blandon-Gitlin (eds), *The Routledge International Handbook of Legal and Investigative Psychology* (Routledge 2019) 2-17.

¹⁰⁷ Vrij, Meissner, Fisher, Kassin, Morgan, and Kleinman, 2017, p. 927.

building and facilitating recollection efforts in investigative interviews. In this complex process, the implementation of legally and psychologically refined interview techniques, evidence based in-service training for the practitioners as well as modifications or elimination of existing ineffective practices are among essential steps.

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