

# The interrogation as a type of dialogue

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## Abstract

Recent work in argumentation theory has classified different types of dialogue that represent conversational contexts of argument use. One that has been very little studied is the interrogation. In this analysis, interrogation is classified as a subspecies of information-seeking dialogue, and the goals, conversational rules, participants, and techniques of the interrogation are identified. The result is a normative model of the interrogation. A main problem addressed is whether argumentation in the model can be correct in the model, or should be evaluated as inherently negative. Should it be seen as a kind of degeneration of rational discussion, or can argumentation in a well conducted interrogation be judged as correct and successful in light of the proper aims of this type of dialogue? Included in the paper are analyses of some negotiation tactics, and some deceptive tactics associated with traditional logical fallacies.

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There is a vast literature on interrogation in the field of law enforcement, but hardly anything on it at all in the field of argumentation theory. There is, of course, a reason for this imbalance. Argumentation theorists have taken as their point of interest rational argumentation in which two parties reason together to try to get at the truth of a matter following collaborative rules of procedure (Grice, 1975; van Eemeren and Grootendorst, 1992; van Eemeren, 2002). And the interrogation is scarcely a model of how to conduct balanced rational argumentation. Far from that, it seems to represent a coercive kind of dialogue exchange that is associated with intimidation, even with things like “truth serums”, or in extreme cases, the use of

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torture (Andersen, 2002: 22). So what lessons are there for the study of rational argumentation in the interrogation? The answer seems to be that the lessons are largely negative. They arise from the concern of logic with so-called “fallacies”, arguments that are faulty but that appear to be reasonable, and therefore are interesting to study because they tend to deceive (Hamblin, 1970; van Eemeren and Grootendorst, 1987; Walton, 1995). In the study of fallacies, cases are often encountered in which there is a transition from a normal, collaborative type of dialogue like a critical discussion of an issue, to what might be considered, from a logical point of view, a more pathological type of dialogue like the interrogation. For example, the use of various tactics associated with leading and loaded questions that might be quite normal in an interrogation, could be criticized as inappropriate in a critical discussion. One way of criticizing the use of such tactics in what is supposed to be a critical discussion would be to show they are characteristic of argumentation techniques used in an interrogation. In other words, while the study of interrogation as a type of dialogue seems to have mainly negative lessons for logic, there is a positive side.

On the positive side, investigation of the interrogation as a type of dialogue that has a systematic normative structure could be useful for all sorts of other purposes. For one thing, it fills out the study of argumentation in contexts of use in different types of dialogue. In (Walton, 1998, Chapter 5) there is quite a bit of material analyzing the interview as a species of information-seeking dialogue, but little on the subject of the interrogation. But apart from the intrinsic interest of the subject within argumentation theory, this new line of investigation may throw light on interrogation as representing a familiar type of discourse with a definite structure. This structure can be quite useful to know about, in the study of legal argumentation especially. But there is another aspect as well. If the interrogation is seen as a type of dialogue that has the goal of obtaining information to serve justice and prevent harm, then normative standards for an interrogation that is good or successful for this purpose may be established. Such a normative analysis provides a basis for evaluating and criticizing tactics and techniques of argumentation used in interrogations.<sup>1</sup>

## 1. Interrogation as a type of dialogue

From a logical point of view, as noted above, the interest in the interrogation as a type of dialogue arises out of the study of informal fallacies and other phenomena of tactics of argumentation. For the purpose of evaluating argumentation as used in actual cases, it has proved essential to distinguish different types of dialogue, or formats of conversation in which arguments are used for some purpose. The context of use of an argument can be modeled by a normative framework for evaluating the

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given argument. A good (correct) argument is one that contributes to the goal of the dialogue. A bad (incorrect, fallacious) argument is one that is used in such a way that it obstructs the goal of the dialogue. Such normative frameworks have been classified into six different basic types in (Walton, 1998) as outlined in Table 1.

One type of dialogue of special interest with respect to interrogation is the information-seeking type. This type of dialogue can take various special forms. One is the journalistic interview, for example, of the kind typified by a televised interview of a celebrity. Another is clinical questioning in medicine. Yet another is the kind of computerized search of a data base for information on a specific topic that we are now all so familiar with. In all of these dialogues, the goal of the proponent is to get some information that the respondent presumably has. The respondent's purpose is to cooperate by giving whatever information he can prudently provide, given his circumstances. The goal of the dialogue as a whole is for this transfer of information to take place.

The interrogation would seem to be a species of information-seeking dialogue, but it seems to contain elements of some of the other types of dialogue as well. Interrogation frequently involves negotiation. For example, bargaining is a common aspect of police interrogations (Williams, 2000: 212). Interrogation also may involve persuasion, or even seem to consist of persuasion of the subject to make a confession. Before going on to study the relationship of the interrogation to information-seeking dialogue, some account must be given of other types of dialogue related to interrogation as well. For the interrogation has a way of shifting from pure information-seeking to other types of dialogue.

A phenomenon that is extremely common in connection with the study of fallacies is the so-called dialectical shift (Walton and Krabbe, 1995), in which a conversation starts out as one type of dialogue but then shifts, sometimes imperceptibly, to a distinctly different type of dialogue. For example, a negotiation dialogue between a contractor and a homeowner about the cost of installing a cement basement may shift to an information-seeking dialogue on what the city regulations are with respect to thickness of the concrete walls and floor in a basement. The shift in this case is a legitimate or licit one, because the information produced by the information-seeking interval could be extremely helpful in moving the negotiation dialogue

Table 1  
Types of dialogue

Type of dialogue	Initial situation	Participant's goal	Goal of dialogue
Persuasion	Conflict of opinions	Prove your thesis is true	Resolve or clarify issue
Inquiry	Need to have proof	Find and verify evidence	Prove (disprove) hypothesis
Negotiation	Conflict of interests	Get what you most want	Reasonable settlement that both can live with
Information-seeking	Need information	Acquire or give information	Exchange information
Deliberation	Dilemma or practical choice	Co-ordinate goals and actions	Decide best available course of action
Eristic	Personal conflict	Verbally hit out at opponent	Reveal deeper basis of conflict

forward towards its goal of reaching an agreement. In other cases, the shift can be illicit, as for example, when a persuasion dialogue shifts to a quarrel, or eristic type of dialogue where the parties attack each other verbally.

The term ‘persuasion’, in the sense meant in the persuasion dialogue, refers to rational persuasion using reasoned argumentation. Rational persuasion refers to the roles of the parties, the kinds of moves they make in questioning and replying, the rules of the procedure, and the commitments of the two parties. Each party begins the dialogue with a set of commitments, and these sets are added to, or reduced, as the dialogue proceeds. The role of the proponent is to get the respondent to become committed to a proposition that he was not committed to before, by using arguments based on his prior commitments. The transition from a participant’s initial lack of commitment to his subsequent commitment represents the concept of rational persuasion. But as Hamblin (1970: 264) pointed out, it is not psychological persuasion or a person’s actual change of beliefs that is the key concept here. The notion of rational persuasion represents the commitments a participant can be held accountable for, once she has agreed to take part in a dialogue and has made moves in that dialogue that incur commitments, according to the rules of the dialogue.

The best known subtype of persuasion dialogue is the critical discussion. According to van Eemeren and Grootendorst (1984: 34), the purpose of the critical discussion is to resolve a conflict of opinions by means of rational argumentation. According to van Eemeren and Grootendorst (1984: 85–86), there are four stages in a critical discussion. At the *confrontation stage* (p. 85), a dispute arises where the one participant advances a so-called “point of view”, and the other participant casts doubt on that point of view, or advances an opposed point of view. A *point of view* is a proposition (thesis) and an attitude (pro or contra) with respect to that proposition (van Eemeren and Grootendorst, 1992: 15). At the *opening stage*, the two parties agree to attempt to resolve the dispute by expressing opposed points of view, and undertake to resolve the conflict by advancing opposed rational arguments. During the *argumentation stage*, each side brings forward arguments to support his or her own point of view, and each takes turns questioning and criticizing the arguments put forward by the other side.

Following are the 10 dialogue rules that govern all moves made by both participants during the argumentation stage. This set of rules can be found in (van Eemeren and Grootendorst, 1992: 208–209), and also in (van Eemeren and Grootendorst, 1987: 284–291). The version quoted below is from the latter source.

### *Rules for a critical discussion*

*Rule 1:* Parties must not prevent each other from advancing or casting doubt on standpoints (p. 284).

*Rule 2:* Whoever advances a standpoint is obliged to defend it if asked to do so (p. 285).

*Rule 3:* An attack on a standpoint must relate to the standpoint that has really been advanced by the protagonist (p. 286).

*Rule 4:* A standpoint may be defended only by advancing argumentation relating to that standpoint (p. 286).

*Rule 5:* A person can be held to the premises he leaves implicit (p. 287).

*Rule 6:* A standpoint must be regarded as conclusively defended if the defense takes place by means of the common starting points (p. 288).

*Rule 7:* A standpoint must be regarded as conclusively defended if the defense takes place by means of arguments in which a commonly accepted scheme of argumentation is correctly applied (p. 289).

*Rule 8:* The arguments used in a discursive text must be valid or capable of being validated by the explicitization of one or more unexpressed premises (p. 290).

*Rule 9:* A failed defense must result in the protagonist withdrawing his standpoint and a successful defense must result in the antagonist withdrawing his doubt about the standpoint (p. 291).

*Rule 10:* Formulations must be neither puzzlingly vague nor confusingly ambiguous and must be interpreted as accurately as possible.

The question of whether the dispute has been resolved is addressed at the *closing stage* of the critical discussion. According to [van Eemeren and Grootendorst \(1984: 86\)](#), a successful critical discussion ends with the resolution of the initial conflict of opinions which shows that one party was successful while the other was not. Unless the conflict is resolved, according to [van Eemeren and Grootendorst \(1984: 86\)](#), “it is unclear whether the discussion has had any point”. In short, a successful critical discussion must achieve closure by resolving the original conflict of opinions in favor of the one side or the other.

As noted above, the interrogation appears, at least at first glance, to be a sub-species of information-seeking dialogue. The information may be needed to assist a police investigation, or for security purposes, before an intended crime or terror activity is committed. With the police investigation in mind, [Dillon \(1990: 75\)](#) asserted, “The purpose of interrogation is to obtain factual, truthful information about some criminal matter at issue.” But as one can see from this description, its purpose is not just to obtain information. The reason for obtaining the information is to use it in some in the service of security or justice, for example in a subsequent criminal proceeding or in a security investigation. The ultimate purpose of the interrogation is to find information that is useful for some anterior purpose. The interrogation often has a certain legal or security function as its ultimate purpose, and so it is very special subtype of information-seeking dialogue. According to [Buckwalter \(1983: 4\)](#), the common goal of the interview and the interrogation is “to obtain factual and relevant information,” but the difference between the interview and the interrogation lies in the attitude of the respondent. An interview is defined as the questioning of a respondent who is “ready, willing and able to tell what he knows.” (p. 4). An interrogation is defined as “a more formal questioning of a suspect, or of a reluctant or hostile witness, or of anyone who is unwilling to discuss freely any information that he or she possesses.” (p. 4). According to this account, both are information-seeking dialogues, but the difference is in the attitude and collaborativeness of the respondent. A problem with this account is that a witness or an innocent suspect who is being interrogated by police may be fully cooperative.

Such a person may willingly and freely submit to the interrogation. But if he knows he is being interrogated, he may be very wise not to treat the dialogue as an ordinary interview. The issue of whether an interrogation always has to be coercive or deceptive will be taken up below.

Royal and Schutt (1976: 21) defined the interview as “a meeting between two or more persons to talk about a specific matter.” They add that this definition would include interrogation, which they defined as “the art and mechanics of questioning for the purpose of exploring or resolving issues” (p. 21). They cited the difference that interviewing is “less formal”, but claimed that in their book, the terms ‘interviewing’ and ‘interrogation’ are used interchangeably. There are some differences between these two accounts, and some questions to be resolved. It doesn’t seem right to say the purpose of the interrogation is to question for the purpose of resolving or exploring issues, because that makes it seem like a kind of persuasion dialogue. But of course, persuasion could be partly, or sometimes involved in an interrogation. It seems better to classify both interview and interrogation as subtypes of information-seeking dialogue, but the differences between the two are surely more than just difference in the attitude of the respondent. At any rate, although both the interview and the interrogation are widely recognized as distinct types of dialogue, there appear to be important differences on how to define them as goal-directed structures of questioning.

The foregoing attempts to define interrogation raise a number of interesting questions of some importance for argumentation theory generally, and in particular, for our understanding of legal argumentation. What is exactly is the interrogation as a type of dialogue? How is it different from the interview? Does an interrogation have to be coercive or deceptive? How is interrogation different not just from interview, but from other types of dialogue like cross-examination in a trial? The argumentation methods used in these two types of dialogue have much in common (Kassin et al., 1990). What are the methods and techniques of argumentation commonly used in interrogations? What essential characteristic is distinctive about interrogation as a subtype of information-seeking dialogue? What do the kinds of arguments commonly used in interrogations have in common with sophisticated tactics of argumentation associated with informal fallacies in logic? Do the other types of dialogue sometimes have a place in some intervals in interrogations? And what role do dialectical shifts both from and to interrogation dialogue play in the evaluation of the arguments? So far, the resources of argumentation theory have not been brought to bear on these questions.

## **2. Characteristics of the interrogation**

The interrogation is essentially an asymmetrical types of dialogue, meaning that the goals and methods of argumentation used by the one side are quite different from those on the other side. The goal of the questioner is to get any kind of information out of the respondent that is needed for some purpose, like taking action to

prevent harm, or pursuing an investigation. The goal of the respondent is to pursue his own interests and goals, as he sees them, balancing them against the wider needs and interests of the community. It is up to him to decide whether his interests are best served by giving out information or by withholding it. He may decide to give out wrong information that will deceive his interrogator, or lead her in a wrong direction (Levy, 1999). How he judges his interests may depend, in a police interrogation, on whether he is a witness or a suspect. If he is a witness, he may perceive his goal as simply to provide the information that he has, in response to the questions asked. He may have various reasons for not wanting to do that, in a given case, but may see his goal as providing the needed information. If he is a suspect, his goal is to give out as little information as possible—especially any information that might tend to incriminate him, or might later be used against him if taken as a confession of having committed a crime. And that could be just about anything, depending on what inferences a prosecutor might draw in front of a jury, or try to get the jury to draw. In such a case, the respondent's goal will be to get through the interrogation without saying anything at all, or by saying as little as possible. In either case, the respondent needs to be careful, and may have strong reasons for concealing information, or at least not giving out information under interrogation. To sum up then, the interrogation is a highly asymmetrical type of dialogue in which the aims of the questioner are quite different from that of the respondent.

The questioner is generally an official. In cases of criminal interrogations, the questioner is generally a police officer. The respondent can be either a suspect or a witness. If the respondent is witness, the dialogue may be described as an interview rather than an interrogation. This observation suggests that the respondent who is a suspect is generally assumed to have “something to hide” in an interrogation. But suppose he is innocent, or is merely a witness, a person has nothing to hide, or so he thinks. If the police are officially questioning him in the police station in the guise of an official interrogation, is it really an interrogation (in the sense defined here) or merely an interview? This theoretical question will be discussed below. In the sense defined here, the interrogation as a dialogue type is characterized by an adversarial element. The interests of the respondent may be assumed to be generally at cross-purposes with those of the questioner. This opposition would be clear in the case of a prisoner of war or terrorist who is being interrogated. The respondent wants to conceal the information he possesses, but the questioner wants to reveal this information so he can pass it on to her superiors who have a use for it. But below it will be argued that this tension or opposition is a general characteristic of the interrogation as a type of dialogue.

Given such a general opposition of goals, you might question why the respondent does not simply refuse to take part in the dialogue at all. This situation is sometimes what happens. For example, the prisoner of war may refuse to say anything beyond telling his name, rank and serial number. But what this observation also reveals is that there is generally a coercive element in the interrogation. The respondent is a prisoner, who has no choice but to be questioned. Or the respondent may be required by law to take part in the dialogue, as in the case of a suspect or witness in a criminal investigation. This coercive aspect clearly sets the interrogation off from



information-seeking dialogue, and from other types of dialogue. It is an important reason why the interrogation is often thought to be logically suspect or deviant as a type of dialogue. Since the one party is pressured to take part, it is hard to condemn him for committing evasions, deceptions or fallacies in the moves he makes in the dialogue, although he may go too far in some cases. Viewed from this angle, the whole interrogation appears to be a kind of unfair or illicit process, at least in certain respects, even though its goal may be a good one.

The interrogation has four stages. First, there is the formative stage, in which some trial or tribunal requires evidence to be collected, and one plausible source of evidence is designated as information that can be obtained by interviewing a particular person. At this stage, the framework is set in place that will determine what kind of information is being sought, as relevant to the case. Second, there is a preparatory stage in which the questioner gets an idea of what to ask, and (presumably) makes a list of the questions to be asked to the respondent. Third, the argumentation stage is the actual dialogue sequence of questions and replies, which are typically recorded in notebooks or on a video or audio tape recording. Fourth, the closing stage of the interrogation takes place when the session is concluded and the body of information that has been collected is assembled in some form. When the session is concluded is something that is up to the questioner. The questioner will conclude the interrogation when either she thinks she has got the information needed, or when she thinks there is no possibility of obtaining this information from the respondent. The respondent has very little choice on when the session will end, except that, as the questioner may emphasize quite often, if the respondent gives out the required information, there will be no need to continue. Unlike the critical discussion, the stages proceed not by the agreement of both parties, but by the unilateral choice of the interrogator. The reminder that the interrogator is the one who will choose to end or continue the session is often used as a way of encouraging the respondent to give out the information that is wanted.

The goals and stages of the negotiation as a type of dialogue give rise to the kinds of tactics used by a questioner. Because the respondent is essentially reluctant to take any meaningful part in the process, and may be well advised not to, the questioner must use tricky techniques to get any results. First of all, the questioner must appear to be friendly and cooperative, even sympathetic to the respondent. Second, the questioner must be very patient, and give plenty of time for answers. Third, the questioner must be methodical, and go by a list of questions that have been previously prepared (Dillon, 1990: 82). Fourth, the questioner must repeat questions that have not been answered yet. And fifth, and most important, the interrogation must go on for a long, indefinite period of time. The technique is to wear the respondent down, and to convey to him the idea that the tiresome interrogation will only be over when he yields the sought-after information. According to Dillon (1990: 80), there should be no time limit for an interrogation, and the pause after a question or answer should give the respondent all the time he needs to finish his answer.

It has been emphasized above that the critical discussion depends on the agreement of both parties to jointly undertake this kind of dialogue and to engage in a



kind of argumentation that will move the dialogue along towards its successful completion. Agreement is especially characteristic of the opening stage. As noted above, the opening stage is defined as the stage where the two parties agree to attempt to resolve the dispute by expressing their points of view. The very opposite is characteristic of the interrogation as a type of dialogue. One party is pressured or even forced to take part in it, and does so reluctantly and under coercive conditions. The rules for the critical discussion also make this contrast clear. Rule 1 forbids parties from preventing each other from advancing a standpoint, indicating that putting forward one's standpoint is what one tries to do. In contrast, in an interrogation, one side is trying to impart as little information as possible, or certainly does not generally stand to gain by putting out lots of information, while the other side is trying to prevent the first party from concealing this information.

The goal of an interrogation is to get information from a party who has it, and who may be trying to conceal it, and who, at any rate, is likely to be reluctant to give it out. But just getting information of any sort is not characteristic of an interrogation. The interrogation is an attempt to get some information needed for a specific purpose. It may be information that is needed for a practical purpose, for example to save lives, in the case of the interrogation of a terrorist, or in a military case of prisoner interrogation. Or it may be police interrogation where the purpose is to get evidence, for example evidence of the kind needed in a criminal investigation. In the former kind of case, the ultimate purpose is to take action of some sort. For example the purpose may be to foil a terrorist plot. In such a case, the interrogation is an information-seeking dialogue that is embedded in a deliberation dialogue. In other words, the agency undertaking the interrogation is trying to achieve some practical goal, and is thus trying to get information needed to achieve the goal. Intelligent deliberation is often based on information needed to find out what is happening or has happened, because directing a plan of action is only possible to the extent that the circumstances are known.

Because of its embedding into a deliberation, the rules for interrogation dialogue are not based on agreement, and are not collaborative in the way the rules for a critical discussion are. First, each party must decide what he or she wants out of the dialogue. The respondent may simply want to conceal the information he possesses. But he may be willing to let some of it out, perhaps in a distorted form, in order to get a lighter sentence or to prevent harm to himself, for example (Levy, 1999). Thus he needs to decide what he can trade off versus what he must try to conceal. The interrogator must decide what information is really important to her, and then she must try to get that, even if she doesn't find out other things that would also be of interest. Then the dialogue takes the form of a tug of war to get or conceal this information. Thus an interrogation frequently shifts to a negotiation type of dialogue. The interrogator, for example, may argue, "If you tell me this, I'll give you that". Or the respondent may bargain by arguing, "If you give me this (e.g. freedom, or immunity from prosecution) then I'll tell you that".

Thus interrogation as a type of dialogue does not depend on the agreement of the participants in the way the critical discussion does. And it tends to shift into deliberation and negotiation dialogues, and to be based on embeddings into these other

types of dialogue. Thus the goal of an interrogation is not just to get information, but to get it for some prior purpose or use. Accordingly, interrogation doesn't have rules that are similar to those of the critical discussion. But it does have rules of a more practical sort that express goals and practical strategies of the participants. It is an assumption of the interrogation that the interrogator has some means of extracting information at her disposal, but also that these means are limited. For example, they may be limited by law, or by international agreements. If she oversteps these allowed means, the information may then become useless. At the opening stage, the respondent must decide whether to remain silent, and not take part in the interrogation at all, or whether to take part in some fashion. Of course, in some cases the respondent may be quite willing to participate, and may want to give the information to this interrogator. But in the normative rules formulated below, it is assumed that the respondent does not want to give out the information, or at least all of it, but wants to appear compliant by taking part in the dialogue.

Rule 1: The respondent needs to take care not to inadvertently say something that might give out the information he wants to conceal, or allow the proponent to infer it.

Rule 2: The proponent may coerce the respondent to reveal information through threats or sanctions, but only by the means allowed.

Rule 3: The proponent needs to pose questions to the respondent, and these questions can, and often should be, leading, loaded and deceptive.

Rule 4: The respondent should answer in formulations that are vague, ambiguous, misleading or confusing, if that will help serve his ends.

Rule 5: The proponent should probe critically into the respondent's prior replies, and try to use them to extract information.

Rule 6: The respondent should take care to try to be consistent in his replies and in the commitments that can be inferred from them.

Rule 7: If the proponent finds inconsistencies in the respondent's commitments, or implausible statements, or statements that are inconsistent with information from other sources, she should ask questions that critically examine them.

Rule 8: If the proponent extracts the information she wants from the respondent, then she has achieved her goal and the dialogue concludes in her favor.

Rule 9: If the proponent terminates the interrogation without getting the information she wants, and the respondent preserves his interests, the dialogue concludes in the respondent's favor.

Rule 10: The two parties can use any arguments, even ones considered irrelevant or fallacious from the viewpoint of a critical discussion, to achieve their ends.

The proponent has the power to decide when the interrogation will actually end. However, from a normative point of view, it ends when the objectives of the parties have been attained or not. Thus it can be seen that the interrogation is a deeply adversarial type of dialogue. One party tries to conceal the information the other tries to obtain. There can be collaboration, especially as the dialogue shifts to negotiations where trade-offs and compromises are made. But the whole dialogue is based on an opposition between the goals of the two parties.

One can see that the critical discussion is quite different from the interrogation. Rule 1 says that parties must not prevent each other from advancing or casting

doubt on standpoints. In a critical discussion, both sides must be free to advance the strongest possible arguments to support their positions. In the interrogation, the questioner directs the questioning, whereas in a critical discussion, both sides share control. Each must bring forward arguments, and question the arguments of the other party. Both sides must be free, as the first rule indicates. In an interrogation, the situation is quite different. One side is not free at all, and must submit to the questioning of the other.

### **3. The interrogation as a normative framework**

The interrogation seems to be a normative framework within which argumentation can be evaluated as appropriate or inappropriate as used within that framework. But there is an initial problem inherent in such a proposal. From a logical point of view, some see the interrogation as inherently coercive and deceptive, while others see the interrogation as having a legitimate place as a goal-directed type of dialogue. So before the interrogation can be used as any kind of normative framework for evaluating argumentation, this question of whether the interrogation itself is inherently good or bad has to be dealt with.

One factor that makes the interrogation distinct from the basic type of information-seeking dialogue is that of the freedom of the participants. In a normal information-seeking dialogue, it would be assumed that both parties are freely engaging in the dialogue, and that the one party is not the prisoner of the other. In fact, it is a normative requirement of the simple kind of information-seeking dialogue that both parties should be free to ask questions, or to put forward arguments or opinions. Neither party should bring pressure to bear to try to prevent the other party from putting forward such arguments or opinions. In fact, bringing such pressure to bear, for example, by using threats, would normally be considered fallacious in information-seeking dialogue. In the interrogation, however, the respondent's role is like that of a prisoner of the party who asks the questions.<sup>2</sup> Thus the interrogation is quite different from the normal kind of information-seeking dialogue that one would see as typical of this type of dialogue.

This key difference poses a question. Should the interrogation be seen as a kind of defective information-seeking dialogue, as a type of dialogue that is contrary to the general aims of information-seeking dialogue? Or should it be seen as a legitimate type of dialogue in its own right? The question here is one of how the arguments or other moves used in an interrogation ought to be judged from a dialectical point of view. By the latter interpretation, we could say that there are good interrogations and bad interrogations, or interrogations that went well, and those that did not go so well. A good interrogation would be one that brought out the information that the interrogator was trying to find (and that is correct information). A bad interrogation would be one that failed in this aim. The question here is whether interrogation is a legitimate

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<sup>2</sup> Of course, it is not literally true that the person being interrogated always has to be a prisoner. Witnesses or suspects who are not under arrest, for example, can be interrogated by the police.

kind of information-seeking dialogue in its own right, or whether it is inherently deviant as a framework of argumentation.

Some would say that the interrogation fosters dishonesty, deception and lack of cooperation (Magid, 2001: 1168). According to this view, interrogation goes inherently against logical argumentation getting at the truth of a matter. Adherents to such a view might conclude that if that party being interrogated is prudent, he will simply shut up, and not give any evidence that will later be used against him. This fact shows, they will say, that the best way that the answerer can come out of the interrogation preserving his goals in the exchange is not to take part in at all, or at least never to reveal any information. But not revealing information is contrary to the goal of the interrogation, or to any type of information-seeking dialogue. So some would say that the interrogation is inherently contradictory, or goes against the goal of information-seeking dialogue, and should therefore be classified as an inherently deviant or negative type of information-seeking dialogue. According to this viewpoint, when an information-seeking dialogue shifts to an interrogation, that is always a negative or illicit shift that indicates the presence of fallacious argumentation.

Others would say that the interrogation is an institution that will always have a legitimate place as long as we have wars, threats to security like terrorism, a justice system, and indeed any circumstances where loss of life is a possibility and harm is an issue. According to Williams (2000: 212), there is almost universal endorsement of the interrogation as a component of the justice system by the police community. These defenders of interrogation claim that it does have a legitimate purpose, and it is a legitimate type of dialogue within this purpose. They would say that because the interrogation is a valuable way of obtaining legal evidence, it has an important and legitimate function.<sup>3</sup> Also, they would say, the respondent does not have to answer the questions by giving whatever information he possesses, if he does not want to, as guaranteed by his Miranda rights (at least in North America). So he is not really forced to answer one way or the other. The exponents of this viewpoint might even say that the respondent is free to disregard any threats made by the interrogator, so such use of threats should not necessarily be held to be fallacious in an interrogation.

The question at issue can be put as follows. Should all arguments and argument-moves used in an interrogation be seen as fallacious or logically defective just because the framework in which they were used is that of an interrogation? Or should such arguments be judged as logically good or bad in a given case depending on whether they contribute to the fulfillment of the goal of the interrogation or not?<sup>4</sup> According to the one viewpoint, all such arguments should be seen as fallacious because the respondent is forced in an unnatural way to “cooperate” with the interrogator. Thus the respondent should be free to lie, to use deception, or to

<sup>3</sup> According to Williams (2000: 213), it is reasonable to argue that the police interrogation “functions as an integral component of a more general process of account production and legitimation”.

<sup>4</sup> As indicated in Table 1, each type of goal has a goal, and each participant in the dialogue has an individual goal. The goal of the interrogation, as outlined above, is generally taken to be one of information-seeking. But this approach may be limited, since it seems to represent only the goal of the interrogator. These basic matters are discussed further below.

otherwise frustrate the aims of the interrogation. According to the other viewpoint, the interrogation exists as an institution in a legal system, so the argumentation in it should be judged from that perspective, and should not be just given a blanket condemnation.

When evaluating argumentation in interrogations, it is easy to fall into a negative mode, and to think that since all interrogations are coercive and one-sided, any inference, argument or conclusion occurring in or arising from an interrogation is somehow logically dubious or untrustworthy. This negative evaluation appears plausible if you look at the interrogation from some other viewpoint or context of argument, like that of the critical discussion. Just looking at the interrogation in itself, and not viewing it as a shift from some other type of dialogue, it is possible to see that there can be good (successful) interrogations and bad (unsuccessful) interrogations. The purpose of an interrogation is to get relevant information of a kind that is wanted or needed. But that is not all there is to it. The term ‘information’ should be taken to refer to statements that are true, or that are reliable. Getting false information, or information that turns out to be probably false, judging from all the relevant evidence, might be even worse than getting no information at all. In short, looked at in this way, the interrogation does have a goal, and the argumentation used in it can be normatively evaluated in relation to that goal.

[Leo and Ofshe \(1998\)](#) collected cases of disputed confessions, and discussed sixty selected cases that fell into three categories: proven false confession, highly probable false confession and probable false confession (p. 436). In all cases, the preponderance of the evidence indicated that the defendant was not guilty. One category they studied was the police-induced false confession, in which investigators become so committed to closing a case that “they improperly use psychological interrogation techniques to coerce or persuade a suspect into giving a statement that allows the interrogator to make an arrest”. Police, in some cases, may cease investigating the case, or even refuse to fairly take new evidence into account. The analysis of cases by [Leo and Ofshe \(1998: 492\)](#) shows, in their opinion, evidence of “shoddy police practice” in the use of interrogation methods, which derives from poor interrogation training. Also, in their opinion (p. 494), the risk of harm caused by false confessions could be greatly reduced if police were required to fully record all interrogations, either on audio or videotape. Another lesson they cite (p. 495) is the importance of careful evaluation of post-admission narratives by police, prosecutors, judges and juries. What is clear is that an apparent admission of guilt should not be just taken at face value by citing the single statement “I did it”. Instead, the sequence of dialogue surrounding the admission should be examined, and taken into account. The presuppositions in the questions eliciting the admission may be important, and how strongly the interrogator pressed ahead with loaded, complex questions, or other tactics, may be significant in evaluating a case. The value of a transcript of the dialogue, in the form of a recording, will be readily apparent to those of us who are used to evaluating argumentation on a case-by-case basis. The transcript enables an evaluator to judge the commitments of the participants, based on some definite evidence that can be used to constrain interpretations and speculations about what can be inferred from what was said.

#### 4. Tactics and techniques of argumentation used in interrogations

Because of the inherently adversarial nature of the interrogation as a type of dialogue, the most interesting aspect of it, from a point of view of argumentation theory is to collect and examine the various tactics and techniques used in it. These are the forms of argument characteristic of interrogation as a framework in which argumentation is used. Curiously, many of these arguments are similar to common types of argument used in critical discussions and other types of dialogue, and often associated with fallacies. Interrogation tactics, although they are rarely mentioned in treatments of informal fallacies in logic, are definitely of interest for this field of study. Some of them are excellent examples of deceptive argumentation. The tactics that have been most studied are those of the interrogator, but it is possible for the party being interrogated to adopt tactics as well. We begin with the former.

Among the deceptive tactics used by interrogators mentioned by [Magid \(2001: 1168\)](#) are the “good cop bad cop” routine, and tactics of lying, like falsely telling suspects that witnesses have identified them or that accomplices have given statements against them. One such tactic (p. 1168) was to put an unsophisticated suspect’s hand on an impressive-looking photocopy machine and telling him that the “Truth Machine” will know if he is lying. Below a classification of the most common tactics of deception is presented.<sup>5</sup> In addition, there are more extreme methods of interrogation, like hypnosis and polygraphy, that are used in some cases. In still more extreme cases, torture, mental or physical, may be used. In contrast to deceptive tactics, these are the coercive tactics of interrogation. Below, the deceptive tactics are covered first, and then we turn to the coercive tactics.

A catalogue of various tactics and techniques commonly used by police interrogators has been compiled by [Inbau and Reid \(1967: 25–122\)](#), and comparable tactics are described by [Royal and Schutt \(1976: 115–150\)](#), [Buckwalter \(1983: 207–235\)](#) and [Wagenaar et al. \(1993: 109–112\)](#). These tactics are psychological mechanisms which the police use to exert pressure in an interrogation, and to try to extract a confession, or to get some other kind of admission or relevant information. Examining some of the main tactics gives a good idea of the kinds of deceptive moves that are commonly made by interrogators.

##### 4.1. *The easiest way out*

This technique is to wear the respondent down, and then inform him that if you just confess, or give us the desired information, then your problems will be over. As [Wagenaar et al. \(1993: 109\)](#) put it, “After many hours of questioning the advice to confess, ‘so you may go home’, may become very seductive”. The respondent may come to believe that if he gives the desired confession, his problem will be solved. This belief, of course, is quite incorrect, because he will later have to concede that he admitted something in court that may lead to much worse problems for him. The

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<sup>5</sup> It is interesting to compare interrogation tactics with the so-called “dirty tricks” used by lawyers in cross-examinations ([Kassin et al., 1990](#)). Many of the arguments used are similar, and are also closely related to informal fallacies of the kind studied in logic.

general line of argumentation is well described by [Royal and Schutt \(1976: 121\)](#): offer the suspect a solution that allows for cooperation and that can be made to appear less objectionable than any other possible solution.

#### *4.2. The only way out*

This tactic is used when conditions become unbearable for the respondent. [Wagenaar et al. \(1993: 109\)](#) cite the case of a man interrogated about the abuse of small children. He was humiliated by the police, who made him undress and ridiculed him during a long and intense interrogation in which they threatened to turn him over to the neighborhood. His treatment was found not to be in violation of any law (p. 110), but was such that he found it intolerable to continue.

#### *4.3. Authority*

[Inbau and Reid \(1967: 117\)](#) advocate interrogating an uneducated or unintelligent criminal suspect as if you were questioning a child. [Wagenaar et al. \(1993: 110\)](#) observe that suspects who do confess are often “simple people” who are impressed by the authority of police officers. In some cases, they note, these people are mentally retarded, or have difficulties speaking the language.

#### *4.4. Hypnosis*

Hypnosis is used in some interrogations as a way to improve memory of distant events ([Taylor, 1984: 4](#)), but [Wagenaar et al. \(1993: 110\)](#) also note that certain physical features of the interrogation venue can be exploited to achieve a kind of effect similar to that of hypnosis. Circumstances of the interrogation, like long sessions conducted in a bare room with strong lighting, can make the respondent tired and suggestible, creating a state of sensory deprivation that has a hypnotic effect.<sup>6</sup>

#### *4.5. Catching off guard*

In the “friendly-unfriendly act”, one interrogator can be hostile and aggressive, while another interrogator appears to be friendly and sympathetic ([Inbau and Reid, 1967: 62](#)). A sympathetic interrogator can try to establish a friendly rapport. The suspect may be led to believe that the interrogator is just having an “off-record” friendly chat during a break from the interrogation.

#### *4.6. Fostering the belief that the suspect is not being interrogated*

As an example of this tactic, [Wagenaar et al. \(1993: 110\)](#) cite the case of a police officer disguised as a prisoner in the suspect’s cell who elicits a self-incriminating statement from the cell-mate. This tactic is a violation of the suspect’s right to

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<sup>6</sup> Problems with using hypnosis are indicated below.



remain silent when being questioned, and is deceptive because the suspect does not realize he is being officially interrogated (p. 110). The trick used here is to disguise the interrogation as something else, like a friendly conversation. It may be an interrogation, but the respondent does not know that.

#### *4.7. Misrepresenting the law*

The interrogator may tell the respondent that remaining silent will be taken as an admission of guilt, or that a confession will lead to a lesser sentence, or that a confederate has already confessed (Wagenaar et al., 1993: 111). Royal and Schutt (1976: 123) suggest that to counter the fear of punishment, the interrogator can point out that jail time may be less than he thinks, or that probation, light fines or short sentences are often given in similar cases. They add (p. 123) that the interrogator should be careful not to promise to arrange these outcomes.

#### *4.8. Distortion of the seriousness of the offence*

Inbau and Reid (1967: 40) advise the interrogators to reduce the subject's guilt feeling by minimizing the moral seriousness of the offense. An example of this technique cited by Wagenaar et al. (1993: 111) included the following tactic: the suspect may be told that the victim is only wounded when he is dead.

#### *4.9. Use of threats*

Use of threats of one kind or another is very common in interrogations, but as Inbau and Reid (1967: 287) warn, the use of strong threats that involve bodily harm will legally invalidate a confession. But indirect or milder threats may be useful. An example cited by Wagenaar et al. (1993: 112) is a case in which a suspect was placed in a fake line-up and told that he was recognized as having committed a whole series of offences. This was used to scare the suspect into confessing to the one offence under investigation.

#### *4.10. We already know everything*

The interrogator should use questions that already presume that the guilt of the respondent has been established, in cases where the suspect's guilt is assumed to be reasonably certain (Buckwalter, 1983: 220). The suspect can even be told that the evidence against him is already too strong to leave room for denial. The questioner could even exaggerate or lie. An example of this kind of tactic would be to tell the suspect that his accomplice has already confessed everything (Wagenaar et al., 1993: 112).

#### *4.11. Sympathizing with the respondent*

Inbau and Reid (1967: 38) suggest that the interrogator should sympathize with the subject, by telling him that anyone else under the same conditions might have done the same thing.

Tactic 6 is especially interesting here because it most obviously involves the phenomenon of the dialectical shift. The police may try to suggest to the respondent that the conversation is not really part of the interrogation, and is really a therapeutic session. The suspect may be told he will “feel better” if he “gets it off his chest”. The trick here is to suppress the long-term consequences of a confession, and to dwell on the short-term supposedly beneficial effects for the suspect. Such tactics may not sound like they would fool anyone, but under the pressure of an interrogation, when the suspect is tired or intimidated, they may work in some cases.

Having covered the deceptive tactics used by interrogators, we now turn to what were called their coercive tactics above. These methods do not all literally involve coercion, but they are not based on free and voluntary argumentation, like the deceptive argumentation tactics. Instead they are based on applying force, other than just of only making a threat, or they involve applying some kind of external technique, like a polygraph (lie-detector), that is independent of the persuasion dialogue between the interrogator and the person being interrogated.

The interrogator wants to find information that is correct. She wants to get at the truth of a matter. So one of her main concerns is that the respondent may be lying. There are various ways to find this out that are familiar to lawyers who routinely cross-examine witnesses. The questioner can check what the respondent has said previously against what others have said, or against what this person has said previously in the dialogue. One can find apparent contradictions among the respondent’s replies, and accuse the respondent of lying. All these techniques seem relatively reasonable, in the sense that the two parties are reasoning together to try to get some coherent account of the matter being investigated. However, there are many other techniques used by questioners in interrogations to try to detect lying that are of a different kind, including hypnosis, polygraphy, narcoanalysis, voice stress, and pupillometrics.

According to Taylor (1984: 133), although hypnosis appears to be a potentially helpful tool for purposes of investigation, there is a consensus of experts that there are too many sources of inaccuracy in it. One of these is the suggestibility of leading questions (Taylor, 1984: 127). Because hypnosis is based on suggestion, the danger of leading questions is great, both during the hypnotic state and afterwards, once the individual has “awakened”. Some courts have rejected evidence based on hypnosis, while others have admitted it under various procedural safeguards. The polygraph, or “lie detector”, and has been widely admitted as evidence by courts (Strong, 1992: 914), even though the technique has some degree of unreliability, and needs to be conducted with training and experience. Narcoanalysis, or questioning under a “truth serum” like sodium amytal, scopolamine or sodium pentothal, has often been used in conjunction with hypnosis. These drugs are not foolproof, however, and experts say that psychopathic, or even normal individuals, can continue to lie under the influence of one of these drugs (Taylor, 1984: 309). Voice stress and pupillometrics are two other techniques for attempting to detect lying. Pupillometrics measures blinking rates and pupil dilation or constriction to determine stress associated with lying. Voice stress analysis measures changes and tremors in normal voice vibrations, working on the assumption that a tremor or abnormality may indicate that the subject is engaging in deception.

There are several kinds of tactics that can be used by the party being interrogated. One is to negotiate with the interrogator. The respondent starts giving out only small bits of information that are true, but not all that helpful, and then hinting that more information will be forthcoming if some concessions are offered. Other tactics come under the heading of pretending to cooperate while giving out incorrect information. One is to tell the interrogator what she thinks she wants to hear, even though the account given is distorted, inaccurate or false. Another is to give information that will seem plausible but will lead subsequent actions or investigations down a false trail. According to a recent *Newsweek* article (Dickey et al., 2002: 24), both Al Qaeda captives and elite American soldiers are trained in counter-interrogation tactics.

What is most interesting about the use of all these techniques in interrogations is what they reveal about the nature of interrogation itself as a type of dialogue. While there is a certain amount of reasoning and exchange of rational argumentation between the two parties in an interrogation, nevertheless the exchange is curiously one-sided, and much of it is quite different from the kind of argumentation associated with a critical discussion. The interrogator is trying to extract accurate information from the respondent, and may use all kinds of coercive and mechanical means to try to get that information, or be sure it is accurate and reliable. Many of these methods are attempts to detect lying. So there seems to be a presumption on the part of the interrogator that the respondent may be lying. In short, the dialogue is highly one-sided, and there is a suspicion in place against the respondent. Much of the questioner's aim seems to be to try to detect any deception or lying on the part of the respondent, in order to insure that the information extracted from him is reliable. All in all, the interrogation seems to be rife with tricky deceptions of various kinds that may be used by both sides. The respondent may be trying to cover something up, and the questioner has an arsenal of techniques for trying to probe more deeply and to root out lies or other deceptions.

## 5. Use of threats and force in interrogations

Tactic 9 is very interesting with respect to known phenomena studied in logic. The informal fallacy of *argumentum ad baculum* is the kind of argument based on a threat, or appeal to force or fear. Appeals to fear and threats have long been known to be powerfully effective arguments. It is easy to routinely dismiss such arguments as fallacious, as the logic textbooks have generally tended to do, and to assume they are always wrong (from a logical point of view). But these appeals are used so commonly in advertisements, negotiations and other kinds of everyday conversational argument exchanges—sometimes for a good purpose, for example to try to get teenagers to avoid risky sexual behavior—that they do appear to have a legitimate function as reasonable arguments. Hence it is simplistic to condemn them as being logically fallacious in every case. This being so, the problem is where to draw the line, distinguishing between the fallacious and legitimate cases.

A speaker presenting a plan for a reorganization of a business concludes her presentation to the employees of the business with the following words: “Gentlemen, I am sure that if you think it over you will see that my suggestion has real merit. It is only a suggestion of course, and not an order. As I mentioned at our last conference, I am planning to reorganize the whole business. I still hope, however, that it will not be necessary to curtail the operations of your department”. No explicit threat is made, but it would be very clear to the employees at the meeting that the speaker has indeed made a threat, and that the threat was made to get the employees to support the speaker’s suggestion for reorganization. The problem here appears to be a failure of relevance. The threat does not really support the arguer’s thesis that her suggestion has merit as a plan. Even if its irrelevance is recognized however, the threat could be quite persuasive to the to the employees, as a reason for compliance. This case is an example of the kind of argument traditionally classified as an *ad baculum* fallacy by the logic textbooks. But exactly what the fallacy consists in remains unclear.

Another kind of argument covered under the same heading is the fear appeal. Much used in current politics, as well as sales and advertising argumentation, this argument tries to get a target audience to adopt a course of action by portraying the only alternative as some horrible disaster (usually death or severe injury) that is very fearful to the audience. The classic case was the so-called Willie Horton series of ads used by the Bush campaign to suggest to voters that Michael Dukakis was “soft on crime”. Recently, fear appeal ads have been prominently used in anti-smoking and anti-drunk-driving ads. Fear appeal arguments certainly are persuasive, but are they fallacious? When they are used for good ends, like persuading people not to smoke, or not to drive while under the influence of alcohol, it is hard to condemn them.

There appear to be differences of opinion on whether threats used in police interrogations are legitimate or not. Wagenaar et al. (1993: 111) write that explicit threats and promises are illegal in the US, citing *Bram v. United States*, 168 US 532 1897. But they add that this doctrine does not apply to cases of plea-bargaining in the US, whereas it does in the UK (*R. v. Turner*, 1970, 2QB 321 ; 54 Cr. App. R. 352, C.A.). Nor is it said to apply in the US in cases where the threat is suggested rather than explicitly stated (Wagenaar et al., 1993: 11). According to Inbau and Reid (1967: 187), a confession will be held to be legally invalid if obtained “after a suspect had been led to believe that unless he confessed he was in danger of loss of life or bodily harm.” This test has been extended to include a confession obtained by telling the suspect that unless he confessed he would be sent to the penitentiary for more serious crimes (p. 188). Other courts have held that use of phrases like, “You had better confess” constitutes a threat of a kind that nullifies a confession (p. 190).

Even worse than threats, various forms of force are known to be applied in some kinds of interrogations, including the use of torture. The methods are generally regarded as illegal, as applied to civilians, and are regarded as unethical and contrary to international agreements, even in wartime (Andersen, 2002). However, harsh methods, and even torture, are frequently used in war, or against terrorists, on the grounds that lives of civilians or of one’s own troops are at stake. Use of torture

has often been justified, both on grounds of its wide use and its necessity to save lives. On the program *Sixty Minutes* (22 September 2002), Professor Alan Dershowitz argued that torture of a terrorist would not be against the Fifth Amendment. He also stated that every democratic country would use torture if it was the only way to save 500 or 1000 lives to get information about a bomb about to go off (CBS News Transcript, 2002: 2). Its association with harsh and painful methods of questioning may be one reason why the term ‘interrogation’ has such a negative connotation, calling to mind scenes of helpless prisoners being intimidated and even mentally and physically tortured.

## 6. Questioning and answering in the interrogation

What types of questions are asked is very important to the success of an interrogation, and the order in which the questions are asked is also very important. Several different types of questions used in the interrogation have been classified by Dillon (1990: 85–91).

### 6.1. *Opening questions*

At the start, no questions should be asked about the crime, and the purpose of questioning at this point is to “get the respondent talking”(p. 85). The opening question should be a yes–no question that is easy for the respondent to answer.

### 6.2. *Free narrative question*

With this type of question, the interrogator simply names a topic, and then asks the respondent to tell what he knows about it. An example (Dillon, 1990: 85) is the question: “I understand you were present when the liquor was delivered, so would you please describe what happened”. The questioner should then listen to the reply without interrupting.

### 6.3. *Direct question*

A direct question follows up a narrative question by asking about a specific item. According to Dillon, the experience of interrogations has shown that it is best to avoid value-laden terms when asking direct questions. For example (p. 86), “An actual rapist will admit having sex with a woman but will deny raping her”. Or, “Tough guys fight somebody, not assault and batter them” (p. 86). So the questioner should stick to language that directly describes the actions at issue, and not use value-laden language of a kind that imputes guilt. Since language in a criminal investigation will tend to be laden with ethical values, the questioner should make an effort to rephrase questions in a more direct way that removes these emotive connotations of the words.

#### 6.4. Cross-questioning

In cross-questioning, a questioner checks and verifies one answer against another, probing the vague, evasive, or apparently contradictory answers (p. 89).

#### 6.5. Review questions

These confirm previous answers, as in the question, “Is that correct?”, or at the closing stage ask, “What else do you know?” (Dillon, 1990: 90).

It can be seen from this list that different kinds of questions are appropriate at different stages of the interrogation. Opening questions are obviously appropriate at the opening stage. Review questions are appropriate at the closing stage. At the closing stage, the questioner closes her notebook, and there will be small talk. Even at this stage, the interrogator is advised to be on the alert for clues that might be dropped by the respondent in the form of unguarded statement made in casual remarks. The respondent is also advised to be wary of letting such casual remarks drop in “small talk”, for a jury may take the remark in quite a different way, out of context—in a way that implies guilt or the committing of a crime. According to experimental results cited in (Taylor, 1984: 121), asking narrative questions generally resulted in fewer errors than asking direct questions requiring short replies, but the answers tended to be less complete.

As noted above, an interrogator needs to be aware of value-laden terms that occur in questions. All questions have presuppositions, and all questions posed in natural language will contain words and phrases that have emotive connotations, both positive and negative. The suggestiveness of a question can have subtle effects on the respondent who is a witness. What may occur is that the suggestive terms in the question can result in the interrogator’s views being incorporated into the memory of the witness. A *loaded question* as used in an interrogation is a question that contains presuppositions such that when the respondent gives any direct answer to the question he concedes certain assumptions that are at issue and that are damaging to his interests or the interests of someone whose actions he has witnessed. For example, the question, “Where did you hide the gun?”, presupposes that the respondent had a gun. If he gives a direct answer, citing any location, then he concedes that he possessed a gun. A complex question is one that combines several presuppositions, in effect, combining several questions in to one. The classic case of a question that is both complex and loaded is: “Have you stopped abusing your spouse?” No matter which of the two direct answers the respondent gives, he concedes engaging in spousal abuse at some time or other. A so-called *leading question* takes the respondent in a certain significant direction as soon as gives a direct answer. Leading questions can be legitimate in an interrogation, but they can have subtle effects that the interrogator or others might not be aware of, and that can be highly misleading.

Complex and loaded questions can be reasonable, provided they come in the right order of questioning in a dialogue sequence. For example, suppose that in an interrogation, the respondent just admitted that he had abused his spouse. Then asking the complex and loaded question “Have you stopped abusing your spouse?” could

be quite appropriate. Fallacious questions tend to occur when there is an unawareness of the complex or loaded nature of a question, and misleading conclusions are drawn from the asking and answering of the question (Walton, 1995: 202–205). Most questions of the kind asked in an interrogation are loaded, in one way or another, simply in virtue of the emotive connotations of the language used to ask the question. Psychologists have studied so-called “response effects” of question wording, and shown that they are highly prevalent in the kinds of questions used in statistical polls and surveys (Schuman and Presser, 1981). What is vital is to understand that every question tends to have a “spin” on it, determined by its presuppositions and by the language used to pose the question.

There is an empirical method of determining how heavily a question is loaded in virtue of the language it contains. The method has two steps. The first step is to ask the question in a statistical poll, and tabulate the results. The second step is to replace the term you think has an emotive spin on it with a descriptively equivalent but emotively neutral term, and then ask the revised question in a poll with a group of respondents selected in the same way as the first group. Schuman and Presser (1981) used this method extensively for determining response effects of question wording. An illustration of the technique is cited by Moore (1992: 343–344). A 1985 survey asked respondents whether too little money was being spent on welfare. Nineteen percent of respondents said ‘yes’. But then when a group of respondents selected by the same criteria were asked the same question with the word ‘welfare’ replaced by the descriptively equivalent phrase ‘assistance to the poor’, 63% said ‘yes’. The difference of 44 points is the so-called “response effect” of the wording in the question. Such a response effect can be used as an empirical means of judging to what extent a term used in question is loaded.

Using loaded questions, and other aggressive questioning tactics of the kind noted above, are legitimate in an interrogation. But if they are pressed ahead too aggressively, the danger is that of getting a false confession. In an interrogation, it is better to move ahead persistently, but also patiently and methodically. Using complex questions with emotive question wording and tricky presumptions built into the question may just confuse the respondent, and others who have to try to make sense of the transcript later. Pressing ahead too hard to try to force a confession may subvert the goal of the interrogation by yielding information that turns out to be false or unreliable as evidence.

## **7. Dialectical shifts and the value of interrogation**

Frequently the interrogation will shift to a different type of dialogue. For instance, it is very common for a criminal interrogation to temporarily shift to a negotiation dialogue. For example, the interrogator may argue that the police will reduce the charge against him if he cooperates by giving out information. Or the person being interrogated may offer to give out some information if some concessions are made. Another common type of shift occurs where the interrogator engages in “small talk”, and may even try to pose as a sympathetic friend, who can help out the



respondent, if only he would “cooperate”. Various kinds of bribes or threats may be made at this point, marking the transition to a kind of negotiation dialogue, or at least marking the attempt of the questioner to initiate this type of dialogue. The questioner’s intent is to facilitate the interrogation dialogue by using the negotiation dialogue to move the interrogation dialogue ahead. This shift is of the kind called a unilateral dialectical shift in (Walton and Krabbe, 1995), made by one party without the knowledge or consent of the other party. Such a shift is not always illicit, but it could be if the respondent does not really understand what is going on. He may not understand, for example, that he will not be punished in some way if he does not cooperate by answering the questions.

What are even more interesting from a logical viewpoint are shifts from other types of dialogues to the interrogation. For example, when a persuasion dialogue degenerates into an interrogation, the shift is often of a pathological nature. In a persuasion dialogue, both parties are supposed to be free to bring forward the strongest possible arguments they can. Neither party is allowed to prevent the other party from bringing forward such arguments. If one party tries to present the other party from doing so, for example, by making threats dominating the conversation, or even preventing the other party from speaking out on certain things, such a blocking of the dialogue is regarded as a violation of the procedural rules. While such moves may even be typical in an interrogation, they are not allowed as acceptable moves in a persuasion dialogue.

As noted above, interrogation typically appears to be purely negative type of dialogue, and to have no redeeming features. And if you look at it from a point of view like that of a critical discussion, this negative evaluation is warranted. The reason, as noted above, is that interrogation tolerates deceptive and fallacious argumentation quite well. In a critical discussion, both parties agree to take part in rational argumentation. But in an interrogation, one party is unwilling and the other not only uses deception, and even force, to the extent that coercion is allowed. Thus both parties are in a position where deception is their best tool. Indeed, it has been held that some deception is present in virtually every interrogation. According to Magid (2001: 1168), “virtually all interrogations—or at least virtually all successful interrogations—involve some deception”. Because of this feature, it is easy to see interrogation as a negative type of dialogue that is to be contrasted with the kind of argumentation in a critical discussion.

It is possible, however, based on the classification of types of dialogue in Table 1, to see interrogation in a positive light. The purpose of an interrogation is to get information for some end, and this information could be extremely useful. It could even save lives, in the case of the interrogation of a terrorist or a prisoner of war. Thus if you look at interrogation from a practical point of view, it can have value or benefits. The information extracted from the individual who was interrogated could be used for some practical purpose, perhaps to foil a terrorist attack on innocent civilians, or to save many soldiers’ lives by warning them of an attack. From this point of view, the interrogation can be seen as, at least if not wholly good, at least as a necessary evil that can have good consequences and a good goal. The basis of this evaluation is a dialectical shift. Such a dialogue sequence is initially based on a

deliberation. The goal is to co-ordinate goals and actions when faced by a dilemma or practical choice. But in order to decide the best course of action, information is needed. Thus the information acquired by an information-seeking dialogue may contribute to the goal of the initial deliberation. What has happened is that there has been a shift from a deliberation dialogue to an information-seeking type of dialogue. It does not need to be an illicit shift. If the information helps the deliberation, the shift can be classified as licit, because it is based on an embedding of the one dialogue into the other.

Hitchcock et al. (2001) presented a formal model of deliberation dialogue. On their analysis, a deliberation dialogue arises out of a need to take action for some practical purpose. At the opening stage of the deliberation dialogue, a so-called governing question about what is to be done is formulated. At the argumentation stage, various action options appropriate to the governing question are articulated and considered by the participants. Arguments for and against each are considered. At the closing stage, the participants make a unanimous decision on which proposal for action to accept. In their formal model, there are rules for the various locutions (speech acts) that can be made at each move, and rules governing the order of such moves. In this model, the information that comes in through an information-seeking dialogue can be relevant to the deliberation. It can be extremely useful at the argumentation stage.

Although we might condemn interrogation from a point of view of the critical discussion model of what argument should be like, a different perspective can be achieved by adopting the deliberation model. For example, the interrogation could be justified, despite its deceptive or coercive nature, if it led to outcomes like the saving of lives that overcome the negative aspects. Thus with the issue of putting a positive or negative value on an interrogation, these two factors always have to weighed on a balance of considerations.

## **8. Interrogation and inquisition**

The interrogation may often be confused with a type of dialogue often called ‘inquisitorial’. This type of dialogue may be characterized as one in which the questioner is trying to impose some kind of religious, political or dogmatic viewpoint on the respondent by getting the respondent to “confess” to some crime, or breach of the dogma. The aim is to “re-educate” the respondent so that he or she will not commit this crime again. This type of dialogue is often associated with, or typified by the so-called Inquisition. Used with a capital I, the term ‘Inquisition’ refers to the historical phenomenon of tribunals mainly in medieval times organized by the Catholic Church. But with a small ‘i’, the term can be used, in a more general sense, to refer to a comparable procedure of this general kind of that can occur during any period of history (Montoya, 1993). The issue in the Inquisition was not whether the accused person was guilty of the crime he or she was accused of committing. That was already assumed (Hample, 2001: 139), on the basis of the lengthy investigation that took place before the part of the inquisition appearing comparable to a trial began.

The Inquisition was an ecclesiastical or church tribunal for the punishment of individuals guilty of *heresy*, expounding or acting out any view that was thought to be against the official beliefs of the church at the time; the subsequent punishment was left to the ‘secular arm’, to which the accused were turned over upon conviction. The chief characteristics of the Inquisition, and of any inquisition in the more general sense, can be specified as follows. Evidence of these characteristics can be found not only in the trial transcripts that have survived, but also in the many manuals that were written, outlining how an inquisition ought to be conducted.

1. The procedure was secret (Alphandery, 1963: 378).
2. The accused were arrested on a basis of suspicion, and were presumed to be guilty (Alphandery, 1963: 387).
3. The names of witnesses against the accused were not made available (Alphandery, 1963: 378). Many manuals, from the earliest, state that the names of the witnesses should be withheld from the accused (Hample, 2001: 139).
4. Moral subterfuges and torture were allowed as ways of extracting a confession (Alphandery, 1963: 379).
5. The procedure was not litigious, meaning that the purpose was not to provide an arena for the accused to argue his side of the case (Alphandery, 1963: 379). The procedure pretty well closed off any room for the accused to argue his side of the case. In some cases, the accused could have a lawyer, or could call witnesses to his good Christian character (Hample, 2001: 141). But the scope for argument was very limited, and the accused could not effectively argue that the denunciations were inaccurate or personally motivated (Hample, 2001: 140).

The purpose of the inquisition is not to extract information from the accused. Or at least, that is not the main goal, even though it is part of the method used. The main goal is to enforce a religious or dogmatic orthodoxy by visibly punishing heretics—that is, individuals who appear to depart from the orthodox viewpoint—to enforce the orthodox views. The intent is to show everyone that the heretic has to undergo a troublesome and painful tribunal, and thereby promote a climate of fear. The goal is that nobody will dare to speak out or act out in favor of the heretical viewpoint, because they will fear the punishment of the inquisition.

The tribunal procedure of the inquisition may be a duly sanctioned legal court, or it may not be. The Inquisition of Spain took the form of court proceedings, but in other cases an inquisition only promotes itself as looking like an official court procedure. For example, during the televised McCarthy tribunals, the procedure look a lot to the viewer like a legal trial in which accused parties were cross-examined, and evidence brought against them for crimes they allegedly committed (Rovere, 1959). But the tribunal had no legal status. What is characteristic of the inquisition type of dialogue is that it appears to be a fair trial, with all the legal trappings, while in reality none of the legal safeguards of burden of proof are present (Walton, 1999: 239–240). The burden of proof is on the suspect to prove he is innocent. The presumption is that

he is guilty. In reality, the inquisition is a one-sided and often secret tribunal in which the accused has no fair chance to argue against the charge that he has committed heresy. The implication presented to him that his best bet is to “confess”, show his remorse, and submit to “re-education”.

The main difference between the interrogation and the inquisition is that the inquisition is a more extreme form of interrogation in which there is only a pretense of fair procedure, when in fact the respondent has no chance of being shown not guilty of the offense. Another difference is that the interrogation is prior to the main event, the criminal trial that follows, while the inquisition is the main event, in the form of a trial, or pseudo-trial. In both the interrogation and the inquisition, however, the respondent is forced to take part. In the interrogation, the respondent is physically forced to sit in a room and confront his questioners. In the inquisition, the accused will face some penalty if he refuses to take part, like losing his job. Or he may, in some cases, be physically forced to take part. But both types of dialogue are characterized by coercion.

The questioning procedure in the inquisition is quite different from that of the inquiry. In the inquisition, the questioning is highly aggressive. The respondent is demonized and stigmatized as a person of evil deeds or character who is “in league with the devil”. Hence the respondent is automatically assumed to be a liar, and whatever he says is discredited from the outset (Walton, 1999: 242). So he is not really listened to. The only important thing, from the point of view of the inquisition, is that he should confess his crime, and express a desire to be “rehabilitated” by turning to the orthodox viewpoint in a public confession and outpouring of remorse. In this respect, the questioning in the inquisition is quite different from that used in the interrogation. The actual details of what happened are less important than the emotional feeling of panic and fear surrounding the process. In the medieval Inquisition, for example, the so-called “evidence” was non-falsifiable. If the accused party was old or seen as anti-social, then that was sufficient “evidence” of being in league with the devil. Evidence could even be “spectral”, meaning that it is an aura that is visible only to the accusers (Boyer and Nissenbaum, 1977: 19). Hence the respondent has no way of refuting this kind of evidence. Nobody else can see it, so nobody else can tell whether it exists or not. If the accuser says you are guilty, then you are guilty. Hamble (2001: 142) calls this self-sealing characteristic reflexive argumentation, using the example of the trial of Joan of Arc. Asked to explain her heretical actions, she replied that the voices of angels instructed her to do these things. But since angels would not tell any person to sin, her answer was taken to prove that she had been instructed by the devil. This, in turn, was taken to prove that she was in league with the devil.

Another characteristic of the inquisition is the use of loaded questions, like “Why didn’t you stop your guilty activities when you knew in your heart they were so evil?” This question is loaded, meaning that no matter what direct answer the respondent gives, he commits himself to having committed the heretical acts. In the inquisition, the aggressive use of loaded questions steers the accused, or the witness, towards a pre-determined admission of guilt. Thus heavy use of emotionally loaded language is characteristic of the questions used. In contrast, as noted above in

describing the kinds of questions used in the interrogation, the questioner is advised to steer clear of emotionally loaded terms, and ask questions that are direct and factual. In this respect, the inquisition is quite notably different from the more general type of interrogation characteristic of the criminal interrogation. The questioning in the inquisition is much more aggressive, much more emotionally loaded, and assumes guilt from the very beginning of the dialogue.

To sum up, it seems initially that the inquisition is a subtype of interrogation dialogue, but as the two types of dialogue are compared more carefully, key differences emerge. The interrogation is an information-seeking dialogue to get information that could be used in a later criminal procedure or for some other purpose, like saving lives in an emergency. The inquisition dialogue is the criminal procedure itself, or at least, it is made to look like a proper criminal trial. Its purpose is not to collect information, but to enforce and propagate some dogmatic religious or political viewpoint. In the end then, it may be better not to classify the inquisition as a subtype of interrogation dialogue, even though the two types of dialogue have important shared characteristics, like the coercive aspect. A better hypothesis about their relationship is that the inquisition is designed to look like an interrogation, or like the criminal trial following up from an interrogation, but this appearance can be deceiving. Really the purpose of the interrogation is both the collection of information for some anterior purpose and the evaluation of the accuracy and usefulness of the evidence collected by critically examining the arguments on both sides. The inquisition is only designed to look like that. In reality, its purpose is to secure orthodoxy against heresy, to serve the interests of those who are the official representatives of the orthodox movement, cause, or dogma.

## **9. Conclusions**

Two questions that have been posed are what the goal of interrogation should be as a type of dialogue, and whether interrogation dialogue always has to be coercive and/or deceptive. As indicated above, interrogation is typically portrayed as a type of information-seeking dialogue. The goal of interrogation is to get information from the party being interrogated. The presumption is that he has the information and that it can be gotten from him by questioning, and possibly by using other methods as well. But the questioner's goal is to get the information. Can that be the goal of the dialogue as a whole, as well? The answer is that interrogation is a hybrid type of dialogue that involves a shift from deliberation to information-seeking. The goal of the dialogue as a whole is to take action that may prevent harm of some sort by finding the information needed to carry out this practical goal. The interrogator's goal is not only to get the needed information from other party, but also, if possible to test it by critically examining the answers given by that party during the interrogation, based on whatever other evidence she has. The other party may be cooperative, and may simply give out the information, but even if he does, the interrogator cannot take it at face value. And in typical cases, as noted above, the other party has very good reasons for being extremely careful about what he says. A

“confession” may be the only evidence needed to convict him. Thus, as Megid put it, an interrogation is virtually always deceptive. Deception and coercion are always there, even if they are in the background. To conduct an interrogation as if it were a persuasion dialogue, or a normal information-seeking dialogue, would result in argumentation that is inappropriate, and even useless for this purpose.

Of course, in a real case, an interrogation could be used for all kinds of purposes. For example the real goal of setting up a tribunal or inquisition may be to punish people, or even to visibly punish them to silence others. In this kind of case, the exercise is a kind of charade however. The real thing that happened, the so-called speech event,<sup>7</sup> was only meant to look like an interrogation. This kind of “interrogation” is a deception, and a common kind of one. Thus we must distinguish between the interrogation as a normative model of dialogue, and real institutional and cultural events that are called interrogations. The interrogation, as defined above, is only an abstract normative model that helps to identify, analyze and evaluate argumentation. It is not a real event, or even coextensive with all cases of real events that may be described as interrogations.

The interrogation represents a type of dialogue in which the one party is restricted in his power to control the dialogue. He is a supplier of information, and his part in the dialogue consists of simply giving answers to questions posed by the other party. He has little say in what direction the dialogue will take, and what questions are asked. If he is fully cooperative then his role is to just answer each question truthfully, and as informatively as possible. On the other hand, he may want to cover something up, and for this purpose he may engage in lying, or in other deceptions that are likely to achieve this goal. The questioner, in contrast, is in the driver’s seat. She poses the questions that probe for the required information. She also tries to ensure the reliability of this information by various means. She tries to check the information against other evidence, and against the prior replies of the respondent. All these aspects of the interrogation make clear how one-sided it is, as a type of dialogue, and how the one party is in control. These aspects of the interrogation are very clearly in contrast with the characteristics of the persuasion dialogue, as indicated by the rules for the critical discussion. The rules of the critical discussion require that both sides put forward strong arguments, critically question the arguments put forward by the other side, and not prevent the other party from doing so. Both sides must be relatively free to present arguments, and both parties must take a relatively equal part in interacting argumentatively. Preventing the other party from presenting an argument, for example by the use of threats or force, is against the first rule of the critical discussion. Any explicit threat made in a critical discussion will be seen as highly inappropriate.

In sharp contrast, threats are relatively normal in the interrogation and, within boundaries, especially in extracting a confession for later use in court, threats are part of the accepted argumentation tactics used by the questioner. Threats may be

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<sup>7</sup> The speech event is the cultural or institutional setting representing the circumstances in which communication takes place. For example, an argument will have to be evaluated differently if it is part of a legal procedure in a court of law (van Eemeren and Grootendorst, 1992: 64).

used by an interrogator, ranging from milder threats to mental and physical torture in more extreme cases, depending on what is allowed and appropriate. In special context of an interrogation, such moves should not be seen as categorically fallacious or inappropriate.<sup>8</sup> Not all interrogations are of the familiar legal type, where a suspect or witness who has Miranda and other rights is being interviewed by simple questioning.<sup>9</sup> Other more coercive and mechanical techniques are likely to be used in some cases. Among the more invasive forms, techniques like hypnosis, polygraphy, narconalysis, voice stress and pupillometrics may be used. Interrogations also occur in a context of war or national emergencies, where legal protections of the usual kind may not be respected. Then we move on the more invasive forms of interrogation associated with techniques that go beyond the range of verbal argumentation. In still more aggressive forms of interrogation, force is used, and even torture, in extreme cases. In short, interrogation is a type of asymmetrical dialogue in which one party tends to be very powerful and the other party tends to be very passive.

Despite this contrast, some would say that persuasion has an important place in interrogation. Royal and Schutt (1976: 24) claimed that what the successful interrogator uses, to get a respondent to make admissions against his own self-interest, is “systematic persuasion, which is conducted in an amiable and humane atmosphere by the interviewer.” Does this mean that during some intervals of a successful interrogation, there will be shifts to persuasion dialogue? Or is the kind of persuasion referred to here not rational persuasion, but more like psychological persuasions that could even be described as “brainwashing”. Royal and Schutt (1976: 24) acknowledged that some might object to the techniques of interrogation they advocated, such as conditioning, stress, and appeals to emotion, precisely by using the term “brainwashing”. It could be, then, that persuasion dialogue, of the type defined above, has little or no place in the successful interrogation. At risk of generalizing, what could be said is that the two types of dialogue are so antithetical that persuasion dialogue has really very little place in the interrogation. Persuasion may be used, but is hardly likely to be the kind of rational two-way persuasion modeled in the persuasion dialogue. It is more likely to represent persuasion in the psychological sense of

<sup>8</sup> Of course what ethically appropriate and what is appropriate as an argumentation tactic in a framework of dialogue are two separate questions. Those who try to justify the use of torture cite the principle of double effect, the principle that the means can justify the end. No argument of that kind is being advanced here.

<sup>9</sup> The expression ‘Miranda rights’ refers to a US Supreme Court decision of 1966 (in the case of *Miranda vs. Arizona*, 384 US 436). The Supreme Court held that when an individual is taken into custody and subjected to questioning, the US Constitutional Amendment V privilege against self-incrimination is jeopardized. To protect the privilege, procedural safeguards are required. A defendant must be warned before any questioning by law enforcement that he has the right to remain silent and that anything he says can be used against him in a court of law. A defendant must be told that he has the right to an attorney, and if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. After these warnings have been given, a defendant may knowingly and intelligently waive these rights and agree to answer questions or make a statement. Evidence obtained as a result of interrogation cannot be used against a defendant at trial unless the prosecution demonstrates the warnings were given, and knowingly and intelligently waived. Effective waiver requires the accused was offered counsel but intelligently and understandingly rejected the offer. Presuming waiver from a silent record is impermissible.



belief-modification, without any overtones of rational persuasion of the kind modeled in the critical discussion. On the other hand, as indicated above, tricky arguments and deceptive tactics reminiscent of logical fallacies are the main methods used in interrogation. Thus persuasion of a fallacious sort does seem to be involved, and shifts to persuasion dialogue underlie many of these moves.

Looking at the police interrogation of a witness or suspect, another important thing about the goal of the interrogation becomes evident. This type of interrogation has the purpose of eliciting evidence, of a kind that can later be used in a trial. So it is important that the interrogator try to avoid making moves in the interrogation that would nullify the value of the conversational exchange as legal evidence. Another factor is that the interrogator should try to avoid becoming overly aggressive in questioning to secure a confession that might be false. Once again, it is important to insist that the goal of the interrogation should be to collect true information that is useful to aid deliberation, and not just to elicit any kind of admission that might loosely be called “information”. It is important to be aware that there have been many cases of confessions extracted by interrogation that later were shown to be false or highly dubious.

To sum up, the basic goal of the interrogation is to get information in order to aid a deliberation or an investigation that will be the basis for taking some kind of action. But by “information” is meant not just any admission. The target of the interrogation is to get a particular kind of information that is relevant, useful, and accurate. In the case of a police interrogation of a witness or suspect, the aim is to get information that can later be used as evidence in court. The information should be relevant, in the sense that it is of probative value in relation to some crime or violation of the law that is suspected. In the case of a threat to security, the aim is to get information that will serve the interest of justice and security by preventing harm. But it defeats the real purpose of the interrogation if the admission extracted from the suspect or witness is relevant, but turns out to be false and misleading or useless. In short, the goal of the interrogation is to get information that is useful for some secondary purpose. This secondary purpose can vary with the type of interrogation. In the case of the interrogation of a prisoner of war, the secondary purpose could be to guide action in a military campaign. In the case of the police interrogation of a witness or suspect, it could be to pursue a criminal investigation leading to a trial. But for either purpose, the aim is defeated by securing an admission that later turns out to be false, misleading or unreliable.

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