

Validating the Use of Interrogation

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Gathering intelligence is an important aspect of any nation's security protocol. Various methods are employed to gather intelligence information; of these, interrogation is one of the most common forms. Negative attention has been paid to interrogation since media sources have disclosed details of practices which may be considered illegal, immoral, and unethical. Human rights advocates, academics, and jurists argue against the use of interrogation when methods of information extraction leads to inhumane treatment of those subject to interrogation, even when methods to safeguard human rights are proposed. Using interrogation as a means of intelligence gathering is a valid practice, though there must be controls in place to safeguard human rights, to ensure no unethical, immoral, abusive, or illegal practices occur.

Interrogation in Criminal Investigation

Interrogation is used to gather information on the commission of crimes. It is used to determine the identity of criminal suspects, and to gather evidence of a crime in a manner that is admissible in a court of law (Redlich, 2007). Some interrogation tactics include determining contradictions in interrogation subject statements; appealing to the subject's guilt, self-interest, and self-conscience; and disclosing the experience of the interrogator, to show authority or expertise (Culhane, Hosch & Heck, 2008). Law enforcement officials are required to undergo a 3 to 4 day course in Reid-technique interviewing and interrogation skills training (Redlich, 2007), prior to conducting any interrogations.

VALIDATING INTERROGATION

Law enforcement officials have self-reported utilizing aggressive interrogation techniques including deprivation of food, water, and washroom facilities; threats of physical harm, and/or touching interview subject in aggressive manner; making false promises or deals with interview subject in exchange for information; and intentionally attempting to confuse interview subject (Culhane, Hosch & Heck, 2008). Interrogation may lead to the obtainment of false information or false confessions based on how the subject of interrogation is treated during the interviewing and interrogation process.

Use of legally recognized interrogation techniques by law enforcement personnel adequately trained in interrogation procedure, will lead to the obtainment of information that is both accurate and admissible in a court of law. By ensuring personnel are adequately trained, using a nationally recognized training system such as Reid-technique training (Redlich, 2007), and offering professional development opportunities to interrogators, valid and admissible information and statement of criminal activities will be ensured.

Interrogation as National Security Protocol

Interrogation is used to gather information related to national security in an efficient and effective manner. It is used to obtain information, through various techniques ranging on a continuum from polite questioning through to “coercive, degrading and then painful methods” (Suedfeld, 2007, p. 56), on future activity impacting national security, from sources including persons in an affected (potentially war-torn) community; and persons suspected of terrorist activity (Redlich, 2007). Military and other government officials involved in interrogation practices are required to complete a 16 week training program including lessons in preparation

VALIDATING INTERROGATION

for interrogations, means of questioning, termination of interrogations, and report writing; completion of a standardized aptitude test with a sufficiently high score; and have proficiency in a second or subsequent languages (Redlich, 2007).

Use of some enhanced interrogation techniques that include facial hold; cramped confinement, and insects in confinement box; wall standing and other stress positions; prolonged sleep deprivation; waterboarding; and torture have found to be ineffective in gathering accurate intelligence information (Blakeley, 2011). Article 1 of the United Nations (UN) *Convention against Torture and other Cruel, Inhuman or Degrading Treatment (CAT)* specifies the types of activities which would be considered torture during an interrogation session (Costanzo, Gerrity & Lykes, 2007). These techniques are also illegal and unethical as defined by domestic and international laws (Costanzo et al., 2007; Redlich, 2007; Saul, 2004). Article 2(2) of the UN CAT details prohibitions and obligations of interrogations, and specifies that there are no circumstances under which the convention would justify torture (Costanzo et al., 2007).

The use of interrogation techniques that are within the scope of domestic and international law, by interrogators adequately trained to perform humane interrogation, will provide the information integral to national security efforts. There is no sufficient documented evidence that utilizing interrogation methods deemed as cruel and inhumane will lead to the obtainment of information that will prevent an imminent terrorist threat (Blakeley, 2011).

Safeguarding Human Rights

Safeguarding the human rights of persons facing interrogation is paramount to efficiently and effectively obtaining useful information for the purposes of law enforcement and national security. Interrogators must be aware of their own prejudices when engaging in the interrogation process, as there is documented evidence of human rights violations increasing during interrogation based on the subject's "physical appearance, ethnicity, or erroneous stereotypes about behavioral cues" (Costanzo et al., 2007, p. 12). Profiling in this manner also diminishes the humanity of the subject of interrogation.

There is a tendency for governments and government officials to attempt to justify the use of questionable enhanced techniques and torture by claiming their specific practices do not violate international laws and prohibitions (Saul, 2004). Another argument used to justify the violation of human rights is the 'ticking bomb argument', whereby ill-treatment is defended as a necessity to gain information on an imminent threat (Costanzo et al., 2007; Gaeta, 2004; Suedfeld, 2007). The ideology is that the mistreatment of one individual has resulted in numerous lives saved when a terrorist threat is averted, therefore the ends justified the means. This method is based largely on the hypothetical 'what if' worst case scenarios, and its use is debated academically.

International law deems the use of torture illegal, and forbids its use for any reason (Costanzo et al., 2007), suggesting the human rights of any and all persons being interrogated is above any perceived threat to a nation. Using necessity as a defence to justify human rights violations has been successful, to a degree, with a Supreme Court ruling in Israel that justifies the

VALIDATING INTERROGATION

use of inhumane treatment only in the ‘ticking bomb’ scenario (Gaeta, 2007). This ruling has opened the debate on the use of torture, and shows how human-rights laws and international laws can be conflicting, as human-rights laws pertain to the state, whereby international laws pertain to individual actions (Gaeta, 2007). Safeguarding human rights then becomes the responsibility of both the individual interrogator and the government agency employing said interrogator. To uphold the UN ban on torture, governments must hold their agents accountable for any mistreatment during an interrogation.

Conclusion

Interrogation has several uses; to uncover the truth in intelligence gathered, and to discern true statements and information from false ones (lies); by police, to gather information on criminal activity; and to provide information on perceived threats of terrorism in a timely manner. Conducting interviews using enhanced techniques has the potential to lead to human rights violations and abuse of power; however, in some instances, these techniques are considered both legal and desirable. There is ongoing debate about the legal violation of human rights through the use of torture during the interrogation process, when an imminent threat to national security is discovered. Both international and domestic laws are rather ambiguous in their interpretations, thus allowing for officials to defend human rights violations.

Since the terrorist attacks of September 11, 2001, academics have argued that interrogation using enhanced techniques, including torture, are valid and viable means of gathering necessary intelligence information. One should strongly consider the most humane methods of inter-

VALIDATING INTERROGATION

rogation, and avoid the violation of human rights, as the legalities of torture are still being debated on a global scale.

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VALIDATING INTERROGATION

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Writer's Notes

The purpose of this paper is to discuss the validity of interrogation as a tool for law enforcement and national security purposes. It is not intended to advocate the use of inhumane treatment; however subjects such as the torture debate are real issues in the post 9/11 world. Some of the international laws and human rights codes are beyond the scope of this paper, and their legal interpretations and counter-arguments would take a paper in itself to discuss adequately. I felt it was necessary to discuss Article 1 and Article 2 of the United Nations *Convention against Torture and other Cruel, Inhuman or Degrading Treatment* (United Nations, 1984, 1987 as cited in Costanzo et al., 2007), as it is the basis of the debate against the use of torture or 'enhanced interrogation techniques'.

Deciding to begin my argument with the use of interrogation in law enforcement allowed me to begin to argue the legitimacy of interrogation while introducing some of the negative aspects of improper use of interrogation methods. It allows me to build into interrogation uses for national security purposes, where the more controversial techniques are utilized. This then logically led into the argument for safeguarding the human rights of interrogation subjects, where the legal aspects come in to play.

The aspect of this essay I like the most is the topic, as it has an element of controversy to it. It is always difficult to breach a subject, such as the torture debate, in any academic writing; however such topics are worthy of discussion. The most difficult aspect of this essay is maintaining a neutrality to the argument, as human rights issues are something I have advocated and fought for throughout my civilian and military careers. Having experience and training in inter-

VALIDATING INTERROGATION

rogation, this subject is a passion of mine. Another difficult aspect was finding resources that countered the argument for the use of torture and ‘enhanced techniques’; as well as finding resources that were declassified. Finding academic journal articles containing certain reports from government agencies made it easier to discuss interrogator accountability without violating any security protocols.