

**Formal Guide to Questioning Witnesses
and the Accused,
With Flash Cards for Questioning**



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Summary

This formal guide serves as a tool for questioning adult witnesses and accused persons. The utilisation of this framework follows the standard procedure of questioning and is underpinned by a purpose-built set of flash cards.

Starting with concrete sample phrasings for informing the person of their rights, tried-and-tested questions and queries follow and lead through the questioning like the central theme. In addition, you will find supplementary explanations for each flash card. This technique enables law-enforcement professionals to obtain comprehensive statements of high quality from individuals willing to testify, which in turn permits a subsequent evaluation of truthfulness of statements to be conducted.

The entire technique of questioning is geared towards the most recent scientific consensus. We selected the flash card format in order to allow police officers, for instance, to be able to conduct a questioning at any time and in whichever context. The specified structure contributes to ensuring that the general legislative framework is upheld and that we achieve statements that are considered solid in court. The final section addresses FAQs about this questioning technique, as

well as references to further reading for those wishing to delve deeper.

Keywords

questioning, informing of one's rights, witnesses, the accused, interrogation, establishment of truth, flash cards for questioning, formal guide

Preface

Effective police questioning is a critical component for the police, the Crown Prosecution Service and the courts to obtain the truth. We have attempted to reach beyond the bounds of our fields in our incorporating of state-of-the-art research. For that purpose we have developed a structured technique usable in police practice (Adler & Hermanutz, 2010, 2013a).

The present guide serves as a tangible reference for questioning adult witnesses and adult accused persons. This step-by-step guide supports you in phrasing your questions and queries that may crop up during the course of questioning.

This guide represents a metaphorical toolbox for conducting police questioning from start to finish. We take it that the outcome of police questioning depends strongly on the "toolbox" utilised throughout the questioning and the necessary know-how of its appropriate implementation.



The correct tools and the know-how about their appropriate implementation determine the outcome of any action.

This guide follows established principles of law (as at April 2018).

We would like to give thanks for all the support we have received. Thanks to Ms. Laura Weigle for her critical appraisal of the draft.

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This guide offers sample phrasing (*in italics*) on the flash cards in its first section, along with concise information adjacent, and then explanatory notes for each flash card. It follows the standard course of questioning and can be utilised either page-by-page on-screen or, alternatively, in print. Furthermore, one may use solely the flash cards. Questioning is arranged into the following three sections:

1. Non-case-specific part of the questioning
2. Case-specific questioning
3. Interrogation to clarify all queries and discrepancies

At the outset of police questioning, the witness or the accused is informed of their rights. Once happy to make their statement, the person is then briefly questioned about a neutral, non-case-specific topic, in order to allow them to familiarise themselves with the questioning environment. Only once this has been completed, the person is questioned about the case-specific event(s), which is the crucial part for the preliminary proceedings. Vastly similar open questions are posed about the case-specific as about the neutral topic.

Crucial features of police questioning are: open questions, a second prompting to repeat the statement, a reversal of the order of narration, as well as focussed attention to detail about visual and

auditory features during narration. These questions are thought to enhance memory recall and elicit responses as comprehensive as possible.

Questioning is concluded with queries about unclear statements, and follow-up questions about incomplete statements. If necessary, final confrontational questions are posed, too. For this section the flash cards offer a mere structure; the content thereof arises from concrete facts of the case and the statements made by the person being questioned thus far.

This method of police questioning generates qualitatively improved statements. Furthermore, it permits a subsequent rating of truthfulness. For this rating of testimonial truthfulness the Federal Court of Justice (verdict from 30.07.1999 – 1 StR [Criminal Law] 618/98 printed in German legal journal *NJW* 1999, p. 2746 et seq.) urges towards the use of the Criteria-Based Content Analysis, whose implementation is portrayed in Hermanutz, Litzcke, Kroll, and Adler (2011). This technique of questioning has undergone continual improvement and evaluation over many years (Adler & Hermanutz, 2013b).

Thereafter, you will find an FAQ section with references to literature on structured questioning with flash cards.

1. Structured questioning of accused persons and witnesses in preliminary penal proceedings

4th edition – as at: April 2018

Prior to questioning, you will need to carefully check and adhere to the general legislative framework.

You will need to adapt your informing them of their rights and your specific questions to the established facts of the case.

The flash cards do not cover each and every legal set-up and obligation to legal participation, and thus neither the corresponding informing the person of their rights. For a particular set-up that tends to recur in your field you may wish to generate your own flash cards.

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Explanatory notes for flash card no. 2:

Prepare all previously established facts of the case before questioning commences. Thereby, it is key to have precise knowledge of the concrete facts of the case. Furthermore, in order to ensure a tactical questioning procedure, the following should be carefully considered and designed:

- choice of where the questioning is conducted
- choice of when the questioning is conducted
- type of summoning and/or transfer to the location of questioning
- selection of duty officer(s) conducting the questioning
- authorisation or denial of the presence of a lawyer during questioning
- mode of documentation
- the issue of interruptions and, if applicable, resuming thereafter
- choice of questioning strategies during the course of questioning, and with that
- choice of potential specialised questioning techniques.

2. Planning and structuring your questioning – a synopsis

Your own mental preparation for the questioning, your own safety, adjusting to the person being questioned, and – in a case where you feel personally affected – self-control.

Preparation of previously established facts of the case. Design of the structure of the questioning and its documentation.

Bear in mind your own safety, thus consider:

- prior risk assessment
- body search prior to questioning
- potential constraining
- presence of other officers
- seating arrangement
- presence of any weapon and other hazardous item in the interrogation room

Explanatory notes for flash card no. 3:

Ascertainment of personal details according to the German Regulatory Offences Act [§ 111 OWiG].

With accused persons, gathering personal details (questions regarding personal circumstances, occupation, income, etc.) according to the German Code of Criminal Procedure [§ 136 para. 3 StPO].

3. Obtaining personal details

Gathering of personal details.

If questioning the accused party: additional questions about personal details.

Before questioning you any further, I shall now inform you of your rights as

(a witness or the accused)

Explanatory notes for flash card no. 4:

- Informing the person of their rights ought to be carried out in an objective manner. Exemplifications are often needed for the person to be able to grasp everything. Legislative phrasings ought to be paraphrased and illustrated by means of examples; make sure you have sufficient time for this. Make sure that the person being questioned has fully understood their rights.
- You may inform the person of their rights directly following questions about their personal details. Should the person being questioned require time to initially familiarise themselves with this novel environment and to relieve their nervousness, then you must by no means discuss any of the actual content of the questioning in the stage preceding informing them of their rights.
- We have considerably brought forward the point in time of informing the person of their rights in order to encounter potential misunderstandings and, as the case may be, to eliminate potential exclusions of evidence improperly obtained.
- Generally, it is preferable to not hold any “preliminary chats” or “exploratory enquiries” prior to questioning, unless absolutely necessary. Questioning begins with informing the person of their rights.

4. Informing a witness of their rights

Mr Z, you have been listed as a witness of the incident ... on ... at ... in As a witness you are obliged to tell the truth. Otherwise you could make yourself criminally liable; for instance, by wrongfully blaming another person, intentionally thwarting the punishment of an offender, assisting or aiding an offender in order to procure them an advantage over the offence, or by feigning an offence.

Do you understand all of this, Mr Z?

The following German codes in particular are to be considered: §§ 52, 55, 57, 58a, 68, 69, 81c, 163 (3), 406i of the Code of Criminal Procedure [StPO], law regarding crime victims compensation, as well as the relevant Legislation for Fines and Summary Proceedings [RiStBV].

Explanatory notes for flash card no. 5:

- Possible addendum: *If you don't (comfortably) speak [the language in which the questioning is being conducted], are not able to fully understand it, or suffer from a hearing impairment or a speech impediment, you may be provided an interpreter or translator free of charge to assist you in exercising your rights of criminal proceedings.*
- (*) Should the accused decide not to want to make any statements here and now, or first of all wish to speak to a lawyer, the questioning is herewith terminated.
- Furthermore, according to the German Code of Criminal Procedure [§ 114b StPO], additional obligations to caution may arise in the case of an arrested accused.
- Up-to-date scripts of informing a person of their rights are available in various languages in the so-called ComVor ("**computer**gestütztes **Vorgangsbearbeitungssystem**"), which is currently being used by police forces in a number of states of Germany (Baden-Württemberg, Brandenburg, Hamburg, and Hesse).

5. Informing an accused of their rights

Mr B., I am now cautioning you as the accused. You are being accused of having committed the following offence:

On Monday at around 11:30 PM in a pub called "The Red Lion", 15 R-Road, B-bury, you are said to have struck Mr O. on the head with a bar stool in such a way that he suffered a laceration and had to be treated in hospital.

According to the law you are free to speak out on the matter or not, and you can consult a defence lawyer of your choice at any point, including prior to your questioning.

Furthermore, you are able to apply for further individual takings of evidence that may discharge you [where appropriate, explain] and, according to the German Code of Criminal Procedure [§§ 140, 141 StPO], in case of compulsory legal representation, especially for a serious criminal charge, you may claim the provision of an official-defence counsel.

According to the German Code of Criminal Procedure [§ 465 StPO], in case of a conviction you would be the one to carry the costs for your defence lawyer.

*How would you like to proceed?**

Await their decision and document it.

Explanatory notes for flash card no. 6:

General pointers about this flash card

- This technique may make officers first of all wonder what the point is. Perhaps the person being questioned won't take the officer seriously? You can overcome this objection by emphasising that this section doesn't take too long, describing the technique and pointing out its benefits.
- This preliminary, non-case-specific questioning allows the person being questioned to familiarise themselves with the type of questions, the procedure and the precision expected of them within the statement they make. In particular, they feel that they can give a comprehensive account of the facts of the case, without being interrupted or influenced.
- It is all about preparing for the questioning of the topic relevant to the police.
- The questioning about the non-case-specific topic acts as a trial run for the person being questioned. Trial runs improve the quality of the statement made about the case-specific topic.
- Should the person not be cooperative, skip this section and try to question them about the case-specific topic (as of flash card no. 13).

6. Non-case-specific topic – free recall

I would like you to tell me what happened. In order to learn everything about the case and to be able to fully appraise it, I am going to use a technique in which we first of all chat about a topic unrelated to the incident that happened on XX.XX.20XX (date of the charged offence).

The person being questioned (be it a witness or the accused) can contribute ideas to settle on this neutral, non-case-specific topic together.

Settle on a non-case-specific topic:

Could you tell me about when you last filled up your car with petrol? ... from the moment you entered the petrol station until the moment you left it.

Or, alternatively,

"From awaking up until leaving your home"

Aside from this, you could also ask about doing the shopping, hobbies, experiences at work, or similar topics.

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Explanatory notes for flash card no. 7:

General pointers about this flash card

- A free recall is a valuable form of legal evidence because suggestibility can be avoided.
- Reinstating in your mind the context surrounding the experienced incident, i.e. the offence, facilitates memory retrieval. The person being questioned is prompted to reinstate in their mind the context surrounding the incident - both the physical scene and their mental state at the time.

Testimonial psychological considerations:

- You gain a first impression of a person's individual capability and capacity to testify, and their precision when doing so.
- This enables a comparison to the statement about the case-specific topic and thereby serves as a way to subsequently gauge to what extent a statement made can be considered credible.
- Ensure you have allocated sufficient time during questioning for the person's responses. Pauses in speech are not uncommon and ought to be met with patience.

7. Non-case-specific topic – free recall

Start

I was not there when you [situation, e.g. were filling up on petrol]. Could you please tell me everything in detail, so that I can imagine it (alternatively: ... so that I can gain a mental image of it)?

Try to imagine yourself back in that situation.

Please don't interrupt the person being questioned!

Should the person being questioned cut off, they can be encouraged to continue recounting the situation.

"And what happened then?", "What else comes to mind?", "I understand", "And then?",

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Explanatory notes for flash card no. 8:

General pointers about this flash card

- In order to help the person being questioned to enhance their memory, you may wish to encourage a mental reinstatement into the to-be-remembered event.
- In accordance with the Cognitive Interview (Geiselman et al., 1985) the free recall is prompted a second time (all information is to be repeated). This communicates to the person being questioned that they are expected to provide as much information as possible – they experience an enhancement of their own memory performance.

Testimonial psychological considerations

- The second prompting communicates to the person being questioned the importance to the officer of also seemingly insignificant things, and that an account as specific as possible is expected of them.

Interpersonal factors

- Express interest in what the person being questioned has to say. This signals appreciation and creates a sense of trust and security.

8. Non-case-specific topic – second prompting

*I have followed that so far. In order for me to picture it exactly, could you tell me **everything** you recall once again? Please convey things you may have missed out on earlier.*

Try once again to imagine yourself back in that situation.

Give the person being questioned neutral feedback.

"I have now understood that"

Explanatory notes for flash card no. 9:

General pointers about this flash card

- The person being questioned is asked to report the events in a variety of orders. By use of this technique various retrieval pathways to the stored information are drawn upon.
- The officer questioning ought to adapt to the person's natural processes of memory retrieval and ought not to interrupt them with interposed questions.
- Some individuals may not be able to narrate in reverse order – in such cases, simply skip flash card no. 9.
- The images (e.g., the clapperboard) serve as an aid for the officer questioning to be able to swiftly navigate between flash cards.

9. Non-case-specific topic – reverse order

Try to really imagine the situation (e.g., leaving the petrol station) once again. Could you recount the situation in reverse order for me?

So, from the moment you left the petrol station until the moment you entered it.



Explanatory notes for flash card no. 10:

General pointers about this flash card

- Attention is directed towards the memory of visual perceptions of the surrounding environment.
- Contextual reinstatement: We experience the world through our five senses: **sight**, sound, touch, taste, and smell. We store information in the way we experienced it; we can mentally envisage scenes, feel what we may have heard, smelled or tasted again, and re-experience those feelings. Recalling sensory perceptions can play a crucial role in reconstructing the context and therefore also the memory of the entire event.
- By focussing specifically on the surrounding environment of the event oftentimes more information can be recalled.
- Should the person being questioned provide further detail aside from describing the surrounding environment, do not interrupt them.

10. Non-case-specific topic – setting

What did the surroundings look like?

Alternatively,

What did it look like there?



The image serves as an aid for swift navigation for the officer questioning.

Explanatory notes for flash card no. 11:

General pointers about this flash card

- Descriptions of persons are crucial for the subsequent questioning of the case-specific topic because it could allow us to make inferences about the perpetrator, witnesses, etc.
- Perceptions of other persons are particularly useful in activating memories of different sensory channels of perception.

Testimonial psychological considerations

- Generally, we are able to describe persons closest to us better than we are strangers.

11. Non-case specific topic – persons

Were other persons present?

If the response is yes:

Who was present?

Alternatively,

Whom did you see? Who saw you? Describe the person.



Explanatory notes for flash card no. 12:

General pointers about this flash card

- Regarding the conversations, aside from mere content, you may hear details about language, dialect, and speech characteristics (e.g., shouting, whispering, etc.)
- We experience the world through our five senses: sight, **sound**, touch, taste, and smell. We store information in the way we experienced it; we can mentally see images, and remember a certain situation again and re-experience our feelings through what we may have heard, smelled or tasted.

Testimonial psychological considerations

- When statements are made, these often include recounting direct speech. This should be documented as such in the record of the questioning.

12. Non-case-specific topic – conversations

Was anything spoken?

If the response is yes:

What was said?



Explanatory notes for flash card no. 13:

General pointers about this flash card

- A free recall is a valuable form of legal evidence because suggestibility can be avoided.
- Once you have finished questioning about the non-case-specific topic you may move on to the particulars of the offence.
- The case-specific statement follows the same structure and procedure as the questioning about the non-case-specific event.

Interpersonal factors

- The person being questioned has now familiarised themselves with the course of the questioning; this develops a feeling of security, which is oftentimes beneficial for the outcome and the feeling of self-efficacy.

13. Case-specific questioning – free recall

You have now familiarised yourself with the type of questions I might ask and you're doing very well.

*Let's now talk about what happened at the bar on
(particulars of the offence).*

Explanatory notes to flash card no. 14:

General pointers about this flash card

- As previously mentioned, the legal value of the free recall section is very high. The person being questioned is able to recount the incident from their point of view, without being interrupted or influenced.
- If the person being questioned is interrupted too early on with follow-up questions on part of the officer in such a way that they don't have a chance of free recall, this mostly means that from this point onwards they will only respond to concrete questions made by the officer. Thereby fundamental information may be missed out.

14. Particulars of the offence – free recall

Please tell me everything that happened that night (ranging widely around the point in time of the offence), so I can gain a picture of it myself.

Try to put yourself in that place again.

Do not interrupt! During their account, note down any questions that may arise and keep these for the interrogation section (as of flash card no. 20).

Explanatory notes to flash card no. 15:

General pointers about this flash card

- Sufficient time and a second prompting to recount everything generally lead to enhanced memory and the provision of additional information.
- Once you have obtained all strongly available information, it is now crucial to steer the attention to further information that the person being questioned may initially not have perceived too relevant.
- Supposing the person being questioned has already made a comprehensive account upon first prompting of a free recall (flash card no. 14), a second prompting may seem dispensable. From experience, however, even in such cases you can obtain additional memories through this second prompting.

15. Particulars of the offence – second prompting

*I have followed that so far. In order for me to picture it exactly, could you tell me **everything** you recall once again? Please convey things you may have missed out on earlier.*

Explanatory notes to flash card no. 16:

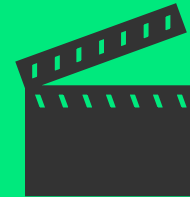
General pointers about this flash card

- Retrieving stored information in reverse order demands high concentration of the person being questioned. This technique often elicits further information.
- Some persons being questioned may not be able to recount the event in reverse order – in such cases, simply skip flash card no. 16.

16. Particulars of the offence – reverse order

Try to really envisage the incident xy (particulars of the offence) once more. Could you recount the incident in reverse order for me?

So, everything from the end of the incident (e.g., when the police arrived) until the beginning.



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Explanatory notes to flash card no. 17:

General pointers about this flash card

- Following the free recall, the person will undergo the structured questioning with a focus firstly on the surrounding environment, then on the persons, and finally on the conversations held.
- Each sensory channel is addressed separately, such as the context, persons involved, or conversations. For each of these steps we have developed a flash card, supplemented by simple images to ensure swift and easy navigation. We paid particular attention to a phrasing with as little suggestibility as possible, as well as with an all-round usability.

Testimonial psychological factors

- By focussing on the environment we are able to access subconsciously encoded details.

17. Particulars of the offence – setting

What did the surroundings look like?

Alternatively,

What did it look like there?



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Explanatory notes to flash card no. 18:

General pointers about this flash card

- Here, too, it is important to obtain details about the appearance of persons, such as clothing, hair, skin colour, and so on. These details should, however, only be enquired for at the end (as of flash card no. 20), provided they have not already been addressed by the person being questioned.

Testimonial psychological factors

- Generally, close ones can be described very accurately.
- Here, too, the person being questioned should be encouraged to expand on what they have reported thus far.

18. Particulars of the offence – persons

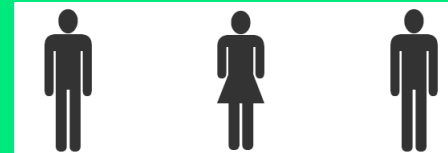
Were other people present?

If the answer is yes:

Who was there?

Alternatively,

Who did you see? Who saw you? Describe the person.



Explanatory notes to flash card no. 19:

General pointers about this flash card

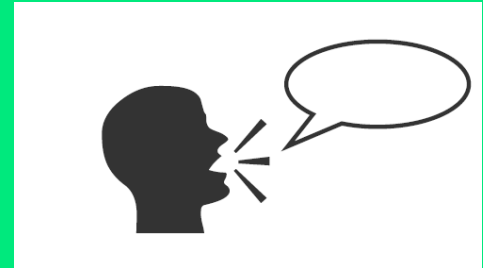
- Details about language, dialect, and speech characteristics (e.g., shouting, whispering, etc.) ought not to be asked until flash card no. 20, provided that the person being questioned has not already remarked on it themselves.

19. Particulars of the offence – conversations

Was anything said?

If the answer is yes:

What was said?



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Explanatory notes to flash card no. 20:

General pointers about this flash card – interrogation (flash cards no. 20 - 23)

- Once the person being questioned has made their free recall, you begin the interrogation (cf. § 69 StPO). Which questions you pose during interrogation arise out of various areas.
- First of all, clarify all ambiguities the person may have provided in their statement, and check possible discrepancies and gaps in the information. Those questions should be noted down during the free recall and not posed until this point.
- Officers conducting the questioning ought to be aware that during the systematic working through the questions, a one-sided style of questioning can influence the behaviour of the person being questioned (expectancy effect). This may even be subject to the officer's own expectation of which aspects of the statement will be relevant.
- Statements can be moulded according to preconceived ideas on the part of the interrogator and it can come to confabulations and false memories.
- Do not underestimate the expectancy effect – it can lead to errors and even false memories.

20. Interrogation – discrepancies, gaps in the statement

Questions and queries arise from the statement made. At this point you pose the questions you noted down during the statement. Questions ought to clarify discrepancies and gaps within the statement the person has made. Where did the person being questioned acquire their knowledge?

You mentioned a waitress by the name of Melanie. Could you give me her exact personal data?

Where were you positioned in the room?

You already mentioned that B. had consumed alcohol. What exactly did he drink?

Explanatory notes to flash card no. 21:

General pointers about this flash card

- You will need to cover all subjective and objective facts of the case, as well as unlawfulness und culpability, which are required by the Criminal Code, with corresponding statements (flash card no. 21).
- The elements of an offence are to have been established by this point.
- Supplementary questions arise from the concrete facts of the case.
- It is crucial to cover all relevant aspects with corresponding statements.
- When phrasing your questions and queries, re-use as much as possible terms and phrasings that the person themselves has used in their free recall.
- Noting down all potential questions you may wish to ask *prior* to questioning is a good way of avoiding suggestive phrasing.

21. Interrogation – clarifying all queries

Supplementary questions arise from the offence in question. It is crucial to cover all objective and subjective elements of the offence, and the aspects of unlawfulness and culpability with the corresponding facts. This is in order to verify whether or not the state of facts can be subsumed under a penal provision. Therefore, you are to enquire about the factors that have not been addressed by the person being questioned thus far, but are important for the legal judgement:

To the accused:

The phone that you took – did you want to keep it for yourself?

To witnesses in a fraud case:

You bought the ... for £220, what was the value of the mobile phone? What does it cost in the shops? (adjustment of claims)

Explanatory notes to flash card no. 22:

- By use of further (“confrontational”) questions you solve any possible contradictions or discrepancies in the statements of others or in objective evidence. Here, too, you ought to draw on considerations of plausibility. The person being questioned is being confronted with something, hence the term “confrontational questions”.
- Hereby it is crucial you do not fabricate any facts (§ 136a StPO). Several flash cards contain a corresponding reference to this.
- During interrogation you can fall back on various different questioning techniques, for example nailing down, persuasion, or surprise (cf. Bender, & 2014, p. 305 et seq.).

22. Interrogation – confrontational questions

The confrontational questions arise from statements made by others, objective facts at hand and objective circumstances (e.g., laws of nature).

The person being questioned is confronted.

You must not fabricate facts or evidence (§ 136a StPO).

*John Doe says: You were looking for a fight that night.
What do you have to say about that?*

*The examination of the injury shows that the strike
came from behind, not from in front as you had stated.
What do you have to say about that?*

Explanatory notes to flash card no. 23:

- As much as possible, you should opt for asking **open questions**.
- At this point it should be evident that the interrogator wants to understand everything the person is telling.

23. Interrogation – confrontational questions

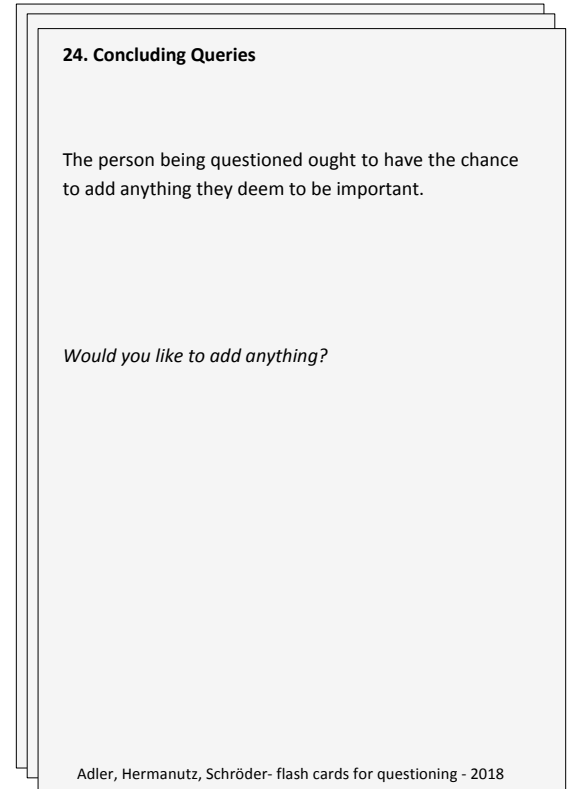
Possible examinations (e.g., fingerprints, traces of DNA) may yield further chance to ask questions. The person being questioned is advised that results can still be obtained and that they will be confronted with them.

You must not fabricate facts (§ 136a StPO).

We are just checking for ... fingerprints on If we find your fingerprints on ..., how would you explain that?

Explanatory notes to flash card no. 24:

- Following the questioning, the person questioned should be and feel able to ask all questions that are relevant for them.
- It is important to inform the person questioned about the further course of action of the preliminary proceedings.
- It should be ensured that the person is reachable should there be any follow-up questions.



FAQs regarding questioning

Why question using the questioning flash cards?

By analysing the historical international development of questioning techniques (Hermanutz & Litzcke, 2012, p. 117 et seq.) we managed to bring together (*inter alia*, in Germany: Berresheim & Weber, 2003) structured questioning techniques. With that, improvements in both the documentation of questioning and the outcome of questioning were made. In order to achieve these positive outcomes for the course of questioning, and to simplify its utilisation for the officer, we have transferred the entire set of questions about the questioning onto flash cards. These flash cards were trialled several times in different seminars and studies (Hermanutz & Adler, 2013). Our results were consistently positive. Police officers swiftly came to terms with the technique as a “structural framework” – they managed to swiftly take in the texts and (re)phrase them from memory.

It was shown that our questioning flash cards are a workable tool and that the obtained statements can be gaged as credible or not credible by means of the Scientific Content Analysis. For the purpose of comparison, we had a control group of police officers who conducted their standard police questionings as per usual. The obtained statements here were oftentimes not usable for an estimation of credibility –

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the hit rate of correct detections of truth or deception was no more than chance (Hermanutz, Adler, & Schröder, 2011).

Practical implementation largely invalidates **concerns** such as “takes too long”, “restricts my spontaneity” (Hermanutz & Adler, 2012). All results are in favour of the implementation of this structured technique by use of the flash cards. It achieves superior results to the very techniques used up until now. We have not been able to detect any downsides thus far.

Regarding the documentation of the questioning, we recommend audiotaping or videotaping, with subsequent transcription.

Why commence with a neutral topic?

At the outset of any questioning the officer must first of all gain an impression of the person’s ability to make a statement. At this stage they must build good **rapport** to the person being questioned. The person ought to familiarise themselves with the setting of the questioning and, as the case may be, relieve any nervousness. This won’t work under time pressure. Instead it works best using a topic that the person questioned feels neutral or even positive towards. This could be current affairs and experiences of sports, music, film, or daily occurrences.

Crucially, the officer questioning ought to attune to the person being questioned, not vice versa. They must be given the feeling that one is interested in them and wants to retrieve as much information from them as possible (report all recall). The person needs to have the scope to express themselves. With the use of questioning on a non-case-specific topic, our participants were able to familiarise themselves with the questioning technique. They knew what to expect; for instance, also that they would be asked to recount certain sections in reverse order. This familiarisation stage, or practice run, is essential as persons being questioned often have a preconceived idea of what questioning entails and reply in a short manner. This applies to those questionings conducted within our research, thus also to real-life questioning procedures (Hermanutz & Adler, 2011).

This first stage of questioning is deciding for the course of questioning because the person has learnt how they are meant to recount.

Partly there are concerns that the person being questioned might not feel that they are being taken seriously or that they might not want to make a statement. With persons willing to make a statement, it can be helpful to explain the technique. If the speaker is uncooperative, the questioner ought to

jump directly to questioning about the case-specific part (as of flash card no. 13).

A further benefit in terms of establishing the truth is being able to conduct a within-respondent comparison of the two statements.

It has been found that detecting truth or deception by use of this within-respondent comparison between the non-case-specific (true) statement and the case-specific statement yields more accurate results. A comparison of a case-specific account with a baseline account yields a more accurate judgement of truthfulness. This was found both in the meta-analysis by Bond and DePaulo (2006) and in our study (Hermanutz, Adler, & Ruppin, 2009).

Can I use this questioning technique on speakers of other languages, too?

Our aim is to be able to use these flash cards for questioning on individuals of other languages, too. For this purpose you might require a translation of the flash cards into the respective language, which can be requested from the authors. Alongside this translation into English, (unpublished) translations into **Turkish** and **Russian** already exist. Translations into other languages are yet to follow.

The benefit of using translated flash cards for questioning is that the interpreter has the questions printed right in front of them. The officer conducting the questioning has the flash cards in the language the questioning is being conducted in, and reads these aloud; and the interpreter has the flash cards in the respective language and simply reads these aloud. The interpreter then translates the person's response, and can thereby focus more so on the translation of the person's responses. The officer then moves onto the next question – and is therefore continually aware of the current stage of the questioning; which section is being asked and translated at any given point.

Don't I need to question every person differently?

The structured questioning technique with flash cards for questioning is suitable for use on cooperative persons, as well as on witnesses and accused persons.

With uncooperative or blatantly lying persons, however, preference may be given to alternative questioning strategies (e.g., use of persuasion or surprise) on an individual basis.

With traumatised victims, mentally handicapped or mentally ill persons, take account of specific needs and idiosyncrasies. Regarding the questioning of children, Hermanutz, Hahn, and Jordan (2015) developed a

guide to the formal structured questioning of children in a forensic context. <http://serwiss.bib.hs-hannover.de/frontdoor/index/index/docId/589>

Outlook

A major benefit of this formal guide is that it serves as a structural framework. Thereby every interrogator has the option of adding their own personal touch. The sample phrasings are suggestions that can be adapted to each particular case. You will not be able to solve all issues that may arise when questioning witnesses or accused persons. Further research is needed to optimise the applicability in practice.

We are aware of the fact that we have addressed merely the most necessary theoretical aspects of the questioning procedure. Further interest can be satisfied with a deeper literature review, such as Hermanutz, Litzcke, Kroll, and Adler (2011) or Hermanutz and Litzcke (2012). There you shall find information regarding legal issues, mnemonics, documenting of statements, an estimation of credibility, constructing of a conducive questioning environment, continued theoretical and practical aspects, and over 300 references on this topic.

If you have suggestions or feedback for us, feel free to get in touch with us!

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