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Detectives and The Legal System: A Paradigm to Support Scholarly Inquiry and Mixed Methods Research in the Social Sciences

James A. Bernauer
Robert Morris University, bernauer@rmu.edu

Frank Hartle
Robert Morris University, hartle@rmu.edu

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Abstract

It is argued in this article that the legal system, from initial investigation by detectives to final resolution in court by lawyers, judges, and juries, offers a basis for investigating phenomena in the social sciences using mixed methods. We think that this new paradigm combines the components of both the qualitative and quantitative paradigms and provides a practical model for conceptualizing and conducting mixed methods research. The implication of this new paradigm is that it may help us better understand underlying phenomena in scholarly inquiry and thus offers a potential contribution for using a mixed-methods approach in both education and the social sciences. However, adopting and adapting this paradigm for mixed-methods inquiry will require further exploration and empirical replication.

Keywords

detectives, legal system, mixed methods, abductive reasoning, trustworthiness

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Detectives and The Legal System: A Paradigm to Support Scholarly Inquiry and Mixed Methods Research in the Social Sciences

James A. Bernauer and Frank Hartle
Robert Morris University, USA

It is argued in this article that the legal system, from initial investigation by detectives to final resolution in court by lawyers, judges, and juries, offers a basis for investigating phenomena in the social sciences using mixed methods. We think that this new paradigm combines the components of both the qualitative and quantitative paradigms and provides a practical model for conceptualizing and conducting mixed methods research. The implication of this new paradigm is that it may help us better understand underlying phenomena in scholarly inquiry and thus offers a potential contribution for using a mixed-methods approach in both education and the social sciences. However, adopting and adapting this paradigm for mixed-methods inquiry will require further exploration and empirical replication.

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Introduction

The TV series *Monk*, which ran on NBC from 2002 to 2009, offered viewers insights into detective work because of excellent screenwriting, directing, and acting all ensconced in a delightful interplay of humor and crime. Monk (played by Tony Shaloub) did an exemplary job solving crimes amidst his challenges of obsessive-compulsive disorder (OCD). While thousands of viewers thoroughly enjoyed this series from an entertainment standpoint, it is the underlying paradigm of how Monk went about solving crimes and the legal system that we wish to focus on since we think that it offers a useful way to conceptualize and go about conducting mixed methods research. What makes this endeavor especially exciting is that, while the series has been off the air for 13 years and counting, it still can be seen on some retro TV channels, YouTube, or using disc media such as Blue Ray. So, if readers want to consult not just supplementary material but actual primary data, it is at their fingertips! Even though the producers of *Monk* more than likely used consultants to inject as much realism as possible into the series, it was, after all, a work of fiction. However, the second author, prior to becoming a full-time professor, was a city detective for 27 years, so we hope that what we offer in this article is seen as credible evidence for considering this paradigm as a model or at least a heuristic for mixed methods research. We use a *dialogical approach* (Hamston, 2006; Bakhtin, 1981) where one author responds to the other as we jointly explore this potential framework for understanding and conducting mixed methods research. Although this approach is not widely used in traditional research studies, it came about as a natural consequence of conversations that we had about the relation of detective work and the legal paradigm to mixed methods study. As Lichtman (2013) so aptly points out after describing how the hard sciences rely on a traditional understanding of the scientific method: “but in the soft sciences such as education or psychology, we might look for alternative ways of conducting research” (p. 4).

While established research designs include phenomenological, case study, grounded theory, etc., the beauty of qualitative inquiry is that the “sky is the limit” when we think about “alternative ways” of conducting research. Such is the case with the approach we use here – it seemed to naturally flow with how we actually went about collaboratively furthering our understanding of how detectives and the legal system may offer us new perspectives on mixed methods research.

Detective Work

JB: I first began pondering the similarities between detective work and research in the social sciences based on my obsession with the *Monk* TV series. I brought this to the attention of my colleague Frank Hartle who responded thusly via email:

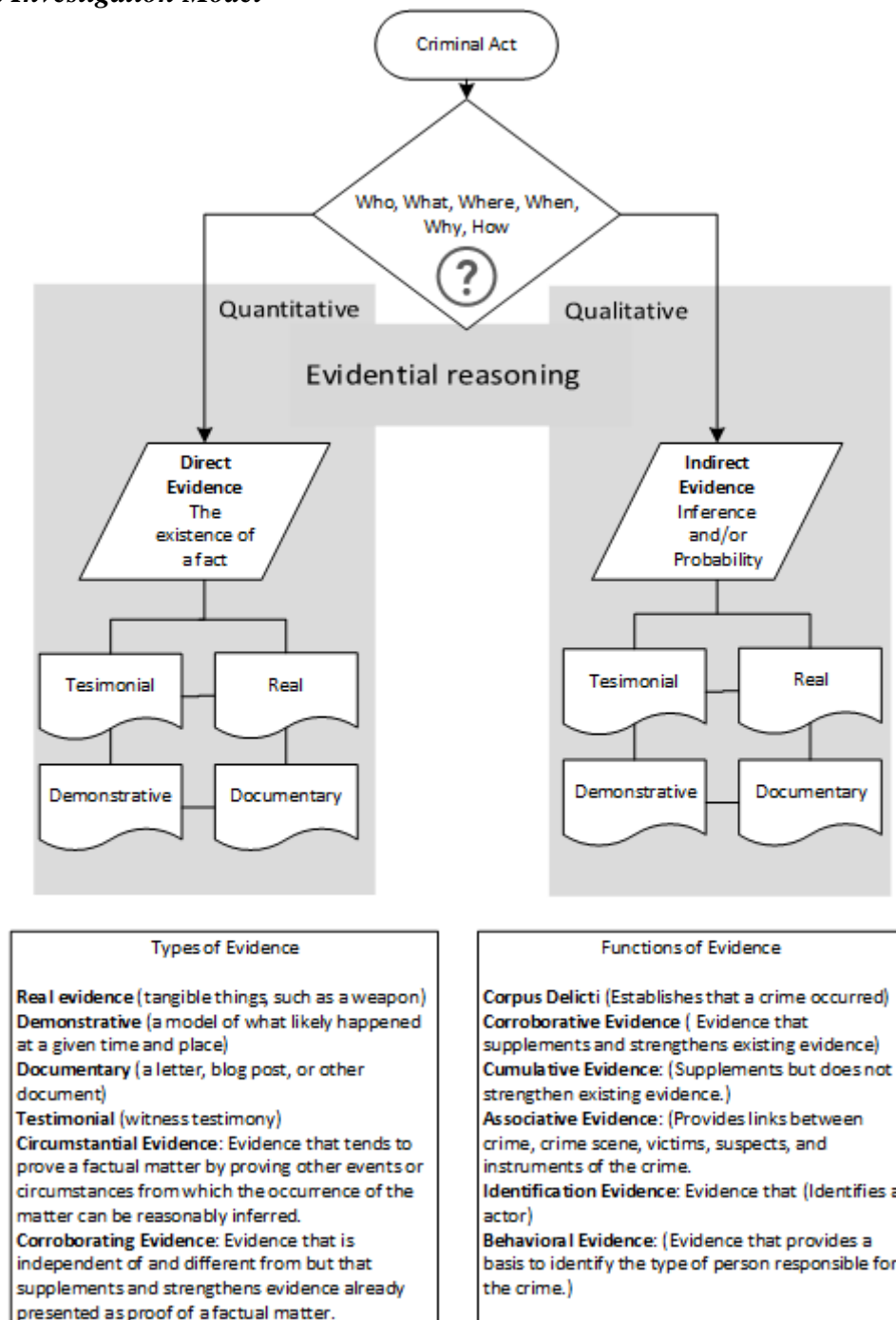
I've done some looking into the idea that investigators utilize mixed method research when conducting investigations. Interestingly there are strong similarities although somewhat in reverse. I've done hundreds of investigations and so it was interesting breaking down the process. Whereas researchers start with a hypothesis or theory and work to test it, criminal investigators start with the proof (crime) and work towards a hypothesis or theory. However, the same basic steps are used, and it is rare that either quantitative or qualitative evidence is used exclusively; rather, they are used simultaneously to strengthen each other. I constructed a basic model based on my experience and some sourced readings. Please look and let me know what you think (see Figure 1).

JB: Based on this personal communication, my first reaction was that it seemed that Frank unconsciously accepts the scientific hypothetico-deductive approach as the standard for research – “whereas researchers start with a hypothesis or theory and work to test it, criminal investigators start with the proof (crime) and work towards a hypothesis or theory.” This assumption struck a sensitive nerve about how we have misunderstood and misapplied the scientific method from the “hard sciences” to the social sciences (Bernauer & Buxton, 2022). If you refer to Figure 1, Frank illustrates his observation based on his assumption of the primacy of the scientific method and, in response to the question of the relationship between detective work and mixed methods research, he states that, “interestingly there are strong similarities albeit in reverse.” In fact, Figure 1 shows that that detective work is infused with inductive reasoning going from the particulars of evidence and eventually to hypotheses and generalities. When I reflect about *Monk*, I see him approaching a crime scene like a critic might approach music, drama, or art; that is, with all senses alert to the large and the small, the obvious and the nuanced, the harmonic and the non-harmonic, and taking great care not to disturb the natural setting. It also doesn't take *Monk* long to begin to connect the dots of evidence and to identify the most likely suspects, which, of course, is due primarily to the fact that he needs to solve the crime during the one-hour duration of the TV show!

Of course, as in all thinking and problem solving, as well as in the scientific method itself, there is a constant interplay between inductive and deductive thinking. For example, what always struck me with *Monk* is that, while he always talked about the importance of “what is in front of him” with a compulsive need to look at the most minute details of a crime scene, he seamlessly drew upon his insights and intuition (Polanyi, 1966, 2014). It reminded me that when I was immersed in the quantitative mindset during my graduate school experience, I dismissed those few individuals who practiced qualitative inquiry as doing work of little or no importance. It is interesting that, retrospectively, I can now see very clearly that the “scientific” work that I was involved with was rife with “soft variables” such as values, interest,

perceptions, feelings, and intuition both on my part as well as that of my professors and the participants from whom we collected data.

Figure 1
Proposed Investigation Model

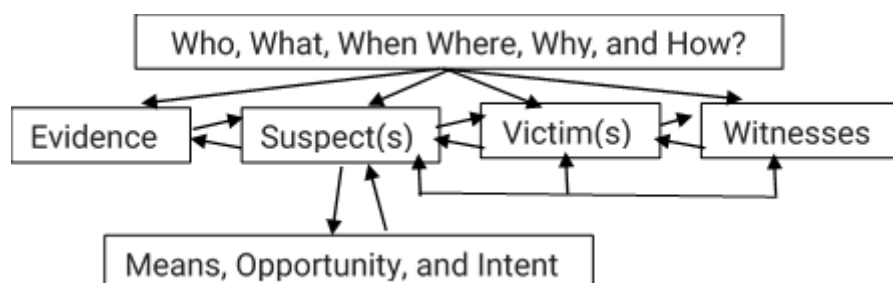


Note: This figure is our proposed investigation model that adopts the “Types of Evidence” from Findlaw (2016).

Frank, based on your own experience as a detective, what can you share with us about your own perceptions and perspectives and how might these relate to the perspectives I just shared?

FH: I think my first response to you about investigators and mixed methods was a bit under-developed. As I applied my own investigative experience over the last 27 years to the question about mixed methods and reflected on it some more, I came to a more nuanced understanding. Our initial conversation was about the television show *Monk*. I am a fan of several murder mysteries, including *Monk*. If we look at the great fictional detectives like Sherlock Holmes and move to more contemporary fictional characters like Monk, Columbo, Olivia Benson, William Murdoch, or Poirot, we see a complexity of thinking being displayed in the stories. While these stories are fictional and sometimes fanciful, the foundational elements of investigation are imitated in the art (Soulliere, 2004). That is to say that they all seem to draw on years of accumulated experiences that have sharpened their reasoning skills. Like scientists, they see patterns and make initial logical inferences. To say that they employ deductive and inductive reasoning would be an understatement. The collective experience of detectives that has sharpened their ability to use sensory, instinctive, and reasoning abilities to find and analyze clues and then to interpret these clues based on their understanding of the human condition demonstrates the need for both linear and nonlinear reasoning. That is not just deductive or inductive thinking but both and more – seasoned detectives do this almost instinctively. Let me try to peel this onion without confusing the point. Detectives employ non-linear thinking by accepting that there are multiple starting points to apply to a problem. They initially may employ *abductive reasoning* – when someone makes an inference to the best conclusion (Douven, 2011). As an example, detectives often begin to draw simple, most logical conclusions about what happened based on an initial brief from a police officer or a first look at the crime scene. As they dig deeper and make detailed observations, interview suspects/witnesses/victims, and collect the many types of evidence (data), these simple conclusions become hypotheses. This abductive reasoning morphs into inductive reasoning. As the qualitative and quantitative hard evidence are analyzed, detectives couple this with prior data and start to deduce what happened. This may seem linear, but many detectives construct multiple hypotheses and employ different reasoning methods concurrently. It would be an impossibility to conduct complex investigations without employing these “mixed methods.” An example would be potential suspects’ pin board depicted on many fictional detectives shows and often used in real investigations. These deductive facts (quantitative) pinned alongside inductive reasoning (inference and/or probability) help to narrow the list of suspects based on a combination of methods. Throw in feelings, hunches, spider senses, and tacit knowledge, and a layer of abductive reasoning is also applied. In other words, detectives reason and think omni-directionally. Look at the oversimplified diagram shown in Figure 2:

Figure 2



All the items represented above are on the forefront of the minds of investigators when they begin an investigation and apply the items in this diagram (Figure 2). A detective employs all the standards of the scientific method but in several directions at the same time. The five W’s and H are layered with the means, opportunity, and intent that exist all along the spectrum of

reasoning. I believe that social scientists also employ similar methods in phenomenological research and ethnographic research.

While quantitative evidence is clear and can help convict a suspect (think DNA), it is the qualitative evidence that leads to the narrowing and focus on suspect and/or motive. Behavior is qualitative evidence and behavior is a key aspect in solving crimes.

The Legal System

JB: When I look back, I realize now that it is the article about qualitative inquiry by Egon Guba (1981) where he discusses the legal paradigm that later inspired me to think about integrating this paradigm with detective work in the service of mixed methods research. The happy confluence of the *Monk* series added an additional zest to this idea. When I think about what I have observed about court proceedings (mostly on TV, movies, and what I read in newspapers), I see a system with an elegant array of checks and balances that is meant to protect defendants while trying to get at the truth. I imagine it must also be a frustrating experience at times. Frank, can you share some of your perspectives and insights based on your experience in court?

FH: The interplay in the court system is purposefully adversarial (Kagan, 2019). It is true that it can be frustrating especially when your methods, and sometimes your integrity, are challenged in front of an audience consisting of a judge, lawyers, jurors, peers, and onlookers. However, this system is necessary to ensure that the weight and responsibility of upholding individual rights including a person's freedom should not be reduced by a superficial process. While some investigators take it as a personal affront when their integrity seems under attack, many more understand it is an integral part of maintaining fairness. While in court, I often thought of Ralph Wolf and Sam Sheepdog, the old Looney Tunes cartoon where, upon greeting each other and checking the clock, they then begin to battle until they punch out at the end of the day and resume cordial relations. Similarly, many investigators and defense attorneys respect each other and are friendly outside the courtroom after they "punch out."

I think that the adversarial nature of the courtroom acts to "purify" the facts and evidence of the case where each side produces evidence and testimony to test and question the validity and interpretation of this evidence as presented by their counterpart. The jury or judge, depending on the type of trial, are the arbiters of truth, or rather, decide what constitutes "beyond a reasonable doubt" if a person is to be found guilty. Much like a theoretical astrophysicist who presents a new theory on life via a simulation before the theory is accepted into the body of knowledge, all stakeholders (defendant and opposing attorneys) sit in judgment in front of their peers. Their story or theory is challenged, tested, debated, and peers attempt to disprove what has been theorized. Anyone who has ever presented a paper at a conference may have had similar experiences when challenged on a fact or conclusion. It may seem adversarial, but it is necessary to keep asking questions and to challenge – it is what makes credibility possible (Kagan, 2019).

Many believe that the facts and conclusions in a criminal case are first challenged in court. However, much like research scientist, it is necessary for every aspect of the case to be disputed from the start. Most detectives have partners and supervisors that act as devil's advocates. They challenge every assumption and attempt to poke holes in the case. They question how the evidence (data) was collected, how interviews were conducted, how statements were obtained, and whether there were mistakes in the reporting to identify and expose any "loose ends" in the case. This process is not meant to be adversarial but rather an examination and verification of facts and reasoning. And it does not stop there – the prosecutor and the district attorney do the same thing but with more detailed inspection. I often liken it to a piece of metal that is heated and beaten to remove impurities. While this sounds idyllic,

impurities often remain and highlight the inadequacies of the case. While researchers easily confess the limitations of their study in their papers, detectives, prosecutors, and defense attorneys do their best to downplay the weaknesses in their case. This brings us back to the importance of the judicial systems scrutiny (Newburn et al., 2007).

JB: Frank, as you point out, stakeholders in the legal system may “downplay the weaknesses in their case” which further supports justification for the adversarial nature of the legal process as you described it. I agree with you regarding the need for the “purposely adversarial” nature of the legal system because I think it recognizes that as long as we humans are central to the process (and I hope that is always the case) that bias, preconceptions, passions, and pride can “interfere” with our obtaining a clearer understanding of the truth and so we need checks and balances much like in our system of governance. As you so aptly put it, this adversarial nature serves to “purify the facts and evidence of the case.” I have come to accept the reality and power of “confirmation bias” where each of us has a propensity to see what we want to see, hear what we want to hear, and to judge people and events accordingly. We humans indeed find ourselves in a real fix because unless we establish our identities based on values and beliefs, we are subject to the whims of circumstance and fate; however, unless we recognize that while we believe we may have the truth we may not have either “the whole truth or nothing but the truth,” and so we may become stunted in our growth and learning. And yet, witnesses must swear that they will “tell the truth, the whole truth, and nothing but the truth.” Perhaps for complete transparency and accuracy we should append the phrase “as I understand the truth at this time.”

You also say that “... researchers easily confess the limitations of their study in their papers ...” and while I generally agree with that statement, I have some caveats. When doctoral students are working on their dissertations, they are often instructed to have a “limitations and delimitations” section, which frankly, I believe they include simply because that is what their advisors told them to do. My personal view is that I am unsure to what extent this traditional admonition is not simply done as “boilerplate” to a study, just like finding the proverbial “niche” in the literature rather than a well-thought-out understanding of it. In any event, after we are well into our careers, I have found that I am not so eager to talk about “limitations” in what I write other than to tell readers that they should consider their own experience, knowledge, and context before they heap praise or blame on what I have written. I find this especially true with article reviewers (Bernauer, 2020) who sometimes seem to delight in pointing out faults rather than helping authors improve scholarship. It may in fact be the case that the old generalizability/transferability issue may be best understood by recalling the phrase *caveat emptor* (let the buyer beware) that was used as sage advice for buyers of merchandise and products. Scholarly writing demands critical reading and thinking regarding not only whether claims have been supported but also the degree to which findings are relevant and applicable to other persons and contexts.

Discussion and Implications for Social Science Research and Mixed Methods

Guba (1981) pointed out early-on that there are four “aspects” of trustworthiness; namely, truth value, applicability, consistency, and neutrality. He then indicated the “scientific” terms that signify these aspects and then “translated” these scientific terms into their “naturalistic” counterparts (see p. 6). In some ways, all that followed this early work exploring the trustworthiness of findings in qualitative inquiry has been a footnote to it. However, I (the first author) can’t help but think that perhaps it may have been a mistake to base the legitimacy of qualitative inquiry by trying to parallel the long-standing focus on internal and external validity (see Campbell & Stanley, 1963). Not that the brilliant work done in service of the scientific paradigm should in any way be diminished; it is rather that the phenomena of interest,

the assumptions that underlie them, and the purpose of the inquiry itself sometimes differ greatly from naturalistic/qualitative inquiry. And so, where does that leave us in relation to our thesis of detective work and the legal system offering a basis for conducting mixed inquiries?

As we collaborated on this article, we recognize even more that we need both numbers and what is "underneath" these numbers to make sense of things. George Will (2021) wrote about one of the many things that seem to divide us nowadays (climate change). He admonished readers regarding big issues such as climate change that we should not squander our resources "until we follow numbers rather than fashions" (p. WB-2). While this statement might be perceived as a criticism to those of us who view the world primarily through a QUAL lens (do we really follow "fashions"?), we should stop and think about this a little bit further. When it comes to phenomena where we can learn from numbers (movement in particulate matter, the economy, valid test scores) as well as from non-numbers (words, objects, pictures, song, poetry, music, and the like), shouldn't we take advantage of these sources to help us paint a more complete, accurate, and even aesthetic picture of the phenomenon of interest? Perhaps a more gestalt approach (where *gestalt* in German signifies the entire picture or context), similar to what we have discovered during our dialogue regarding detective work and the legal system, may indeed offer a better way to identify credible evidence and further understanding. That is, the collaborative and interconnected synergy of the work of detectives coupled with the legal system may offer us a wider lens for conceptualizing and carrying out mixed methods research.

As emphasized earlier, it is the collective experiences of detectives that have sharpened their ability to use sensory, instinctive, and reasoning skills to find and analyze clues and then to interpret these clues based on their understanding of the human condition. This demonstrates the need for both linear and nonlinear reasoning in investigating crime. That is not just deductive or inductive thinking but both and more – seasoned detectives do this almost instinctively. In addition, investigators use several reasoning methods to understand the conclusion of the crime that is before them. We used the example of the pin board to illustrate how these reasoning methods may be employed. Based on these examples, we again suggest that detectives reason and think omni-directionally.

While research is presented neatly packaged in its final state, it often shares the same process outlined above. We would argue that no researcher goes into a project without prejudice or a preconceived notion of what might be, nor do they empty their minds of experience and knowledge previously gained to be unbiased. Final research papers might seem to follow the "scientific method" in a neatly organized process; however, we think that if research was presented as it occurred it would in fact resemble the detective's pin board and appear to be much more naturalistic. Research presented in this way would not only be more authentic, but it would also highlight weaknesses to be explored. We said earlier that researchers often fail to highlight, or purposely omit, the weaknesses of the study. These weakness or gaps should not be hidden away but rather explored to solidify a theory and to discover any "anomalies" (Kuhn, 1962). Kuhn (1962) stated, "crisis is the essential tension implicit in scientific research" (p. 79). As we postulated, tension and adversarial criticism in the criminal justice system is necessary due to the consequences of the potential outcome; namely, losing one's freedom. This process is often frustrating and stressful, and purposely constructed that way. Conversely, researchers often take issue with dissent and counterproposals when it comes to their research. As Jim suggested, many researchers delight in pointing out faults rather than helping authors improve scholarship. If mixed methods research embraced the idea of letting other people see their pin board and embrace (practice) the idea of "collegial adversarialism," theories would develop faster and perhaps lead to better paradigm changes. Again, quoting Kuhn (1962), "novelty emerges only with difficulty, manifested by resistance, against a background provided by expectation" (p. 64).

We also think that we need to add an important note about the importance of participants: participants are our lifeblood, whether human, animal, or nonliving (such as artifacts). We look at participants as our co-researchers because we are all learning at the same time about ourselves as well as the phenomena under investigation. Again, we need both numbers and what is "underneath" these numbers to make sense of many things. The legal system certainly does not always deliver error-free results, as witnessed by the fact that DNA evidence is now routinely used to exonerate those who were initially found guilty or incriminate those who were thought to be innocent. In addition, evaluating the credibility of evidence in the courtroom also includes participant inflection, body language, and manner of speaking, which may or may not support the credibility of findings but nonetheless is important to consider. In fact, I (first author) developed a system of coding that tries to preserve and use the original oral/aural data if possible before reducing it to writing and transcription (Bernauer, 2021). In summary, we have tried to show in this dialogic exchange that the dyad of detective work coupled with the court system may offer those of us in education and the social sciences a foundational platform for bridging the qualitative-quantitative divide and to develop a scholarly research approach that finally allows us to "mix methods" transparently in the pursuit of discovering new knowledge.

Potential Contribution to Mixed Methods Approaches in the Social Sciences

Although a great amount of effort and worthy accomplishments have been made to integrate qualitative and quantitative methods during the past four decades (see Onwuegbuzie, 2012; Teddlie & Tashakkori, 2010), for too long our perspectives have been constrained by focusing on these methods and their underlying paradigms. Why not investigate a different paradigm by thinking of ourselves as detectives who seek and use various approaches and the gestalt of evidence to help us "solve the case" or at least help us paint a fuller picture of the truth and where our journals and peer review processes support this approach?

While specific quantitative and qualitative data analysis procedures, whether statistical in quantitative inquiry or coding in qualitative inquiry are critical to our work, we think that the mindset guiding our inquiries should be more akin to detective and legal work rather than trying to conform to what we have been taught regarding rigor in our paradigm. This mindset will hopefully open up the opportunity to explore propositional and tacit knowledge seamlessly. However, adopting and adapting this new paradigm into mixed method inquiry will require that individuals experiment with it in conducting empirical inquiries. Yet answers to questions based on empirical inquiry and replication must be further fleshed out. These questions include but are not limited to the following:

1. What difficulties were encountered when trying to base a mixed methods study on this paradigm?
2. What adaptations might be made to this paradigm so that findings are more valid/credible?
3. What does this paradigm offer in terms of generalizability/transferability?
4. What instruments were or were not found to promote valid and reliable data?
5. What are the overall strengths and weaknesses of this paradigm?

While we are sure that there will be shortcomings in this paradigm, we think it will get us closer to understanding the complex phenomena that we often investigate. Is it not time to try mixing paradigms as well as methods in social science research?

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Author Note

James A. Bernauer is a university professor of education at Robert Morris University in Pittsburgh, PA. His areas of interest include learning theory, pedagogy, and research methodology. Comments and questions welcome at bernauer@rmu.edu.

Frank Hartle is an Assistant Professor at Robert Morris University and the Director of the Criminal Justice Program. He has over 25 years of experience in law enforcement at the local and federal levels, both as a detective and federal agent. He is a founding member and coordinator for Robert Morris University's Center for Cyber Research and Training and served on the board of directors for the Department of Homeland Security's Center for Criminal Investigations and Network Analysis located at George Mason University. Comments and questions welcome at hartle@rmu.edu.

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