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CRIMINAL INVESTIGATION

7th Edition

a method for reconstructing the past



James W. Osterburg

Richard H. Ward



Seventh 7 Edition

Criminal INVESTIGATION

A Method for Reconstructing the Past

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There is no accepted test of civilization. It is not wealth, or the degree of comfort, or the average duration of life, or the increase of knowledge. All such tests would be disputed. In default of any other measure, may it not be suggested that as good a measure as any is the degree to which justice is carried out, the degree to which men are sensitive to wrongdoing and desirous to right it?

Sir John Macdonell. *Historical Trials*. London: Oxford University Press, 1927, 148.

To Julia, wife and life-long companion since high school days, mother of our children, and early copy editor of this book. She made it readable by refusing to type any paragraph she could not understand. She is missed, having battled and was felled by ovarian cancer. In loving memory of a remarkable woman—Julia Mary Osterburg.

—Jim Osterburg

To the many students, friends, and colleagues who have enriched my life. To my wife, Michelle, and our daughter, Michelle Sophia, my appreciation and love for understanding the many hours in my den pursuing new ideas and new horizons. And to our grandchildren, Declan and Keeley, their parents, Juli and Jon, and our daughter, Jeanne. Finally, to our editor, Ellen Boyne, who has been there since the first edition of this text in 1992.

—Dick Ward

In memory of friends and colleagues who have passed along the way, and to those who serve in law enforcement and the military at home and on distant shores.

—DW and JO

Dedication

In the history of a field of study, landmark events chronicle the stages of its progress toward a discipline. We have chosen to commemorate a number of events in the evolution of criminal justice beginning with the establishment of university programs in the early 1940s, the roles played by those police departments that took the lead in recognizing the value of education and the importance of professionalization in law enforcement, the impetus of the federal government in providing funds for research and development in the 1960s and 1970s, and the leadership provided by local, state and federal officials who fostered change.

Well before the designation of our field as criminal justice, a few universities were prodded by a progressive police chief to set up departments centered largely on the study of the police. Leading the way were the Departments of Police Administration at Indiana University, Michigan State University, Washington State University, the (now defunct) School of Criminology at the University of California, Berkeley, John Jay College of Criminal Justice, and Sam Houston State University in Texas. The uneasy alliance between some in academia and criminal justice took many years to overcome, but today there are more than 1,000 college-level programs in the field, strong testimony to the many faculties who have contributed to the development of education and research.

Dr. Donald H. Riddle (1921–1999) was a distinguished leader and innovator in the field of criminal justice education. When President of John Jay University, he was once asked “How do you educate the police?” His answer, “Like everyone else,” became legendary and helped set the direction for curriculum and research in the field. His vision and understanding of the special mission of an urban university was realized during his tenure as Chancellor of the University of Illinois at Chicago. His wisdom and dedication to higher education and the field of criminal justice were an inspiration to faculty and students. The authors were privileged to know Don Riddle as a friend and mentor and are honored to dedicate this book to his memory.

Dr. Gordon Misner (1927–2006), a pioneer in criminal justice education, is remembered as a good friend and mentor of Richard H. Ward. His contributions to the investigative function and to his many students are recalled in this dedication.

We also honor (former) Dean Victor Strecher and the faculty of the School of Criminal Justice at Sam Houston State University for securing the funding for the first endowed chair in criminal justice—the George J. Beto Chair.

James W. Osterburg
Richard H. Ward

In Memoriam: James W. Osterburg

The passage of Jim Osterburg in November 2012, as we completed work on this edition of the text, marks the end of an era in which Jim's distinguished career spanned almost eight decades and saw what might be described as a revolution in criminal justice and crime investigation. Jim retired as a First Grade Detective in the New York City Police Department and was one of a few early forensic scientists who helped establish the discipline as an area of higher education within the field of criminal justice. Jim served as chair of the Department of Forensic Studies at Indiana University, and later as Chair of the Department of Criminal Justice at the University of Illinois at Chicago. He was the author of numerous articles and books, and our association as coauthor and editor with him began with the first edition of the book in 1992. His ongoing involvement and participation over the years are examples of Jim's dedication to the study of criminal investigation and his contributions to a science and research methodology.

Jim was a dedicated family person, and the loss of his wife, Julia, who helped with earlier drafts of this text, was a great loss. He was very proud of his four sons and his grandchildren. Despite his many awards and honors, Jim was also a person who did not seek recognition, and spent most of his life seeking answers to what he referred to as "the unanswered questions." He will be missed, but he will also be remembered for his many contributions to the pursuit of justice.

Richard H. Ward
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Our editor, Ellen S. Boyne, has been with us since the beginning and the first edition in 1992. Her patience and fine editorial hand through numerous and major changes in both organization and content, as well as her suggestions, have been an important part of the success this book has enjoyed. We are truly indebted to her.

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Although we received numerous suggestions and acted upon most of them, we rejected some; in the final analysis, therefore, the text is our responsibility and not that of any of the readers listed above.

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Preface

In this seventh edition of this book, we adhere to the principles of the first edition to provide a fundamental text on criminal investigation. Much has changed over the years in the field of criminal investigation, the law, and in society. Each edition has changed significantly to stay abreast of the many developments, and this edition marks yet another major revision of the book's structure and content. Issues affecting law enforcement display a combination of traditional concepts and terminology, and the emergence of new forms of crime and criminal activity. Cybercrime, global crime, terrorism, violent gang activity, complex fraud scandals, and enterprise crime are but a few of the issues that have taken new form in the criminal justice process. Indeed, the scope of the information and data has grown to the point that no single text can cover the field of criminal investigation. With this in mind, the seventh edition has been designed to enable instructors to emphasize those sections of the book that may be more relevant to their geographic location, of particular interest to students studying in specialized areas, or where the expertise of the instructor may go beyond the fundamentals of a particular type of investigation. Of particular note is the establishment of web site containing ancillary materials that will be of interest to readers.

Another goal is to help the general reader understand how detective work should be performed, and, most important, to demystify the investigative process. To the extent that criminal investigation is perceived as part and parcel of a more universal kind of inquiry, we will have succeeded. Human beings, it must be agreed, have always acknowledged their need to understand the past. In the study of ancient history, this understanding relies largely on what records survive from that era; in criminal investigation, on the other hand, reconstructing a past event (i.e., a crime) is based on evidence developed by the forensic laboratory, from questioning people, and from examining records.

There are numerous reminders throughout the text that criminal investigation must be conducted within the framework of our democratic system. Hence, those U.S. Supreme Court decisions that affect the investigative function are quoted extensively. They reveal the inherent tension created by the state's obligation to enforce the law while protecting a citizen's rights under the Constitution. In addition, the Court's carefully crafted opinions expose the student to legal reasoning at its best. Although courses in criminal procedure are covered in the criminal justice curricula, we believe that issues that have been or will be brought before the court are better comprehended when there is an awareness of law enforcement's perspective as well as that of the civil libertarian's.

Whatever may be the need for information, it is fairly obvious that the ability to conduct any type of inquiry can be honed by studying the investigative process. Perhaps one of the most important changes in American life has been the expansive range of information available through technology, research, and social media. Ultimately, the investigator relies upon three sources of information—physical evidence, people, and records. The manner in which this information is collected, compiled, and analyzed by the investigator involves much more than a vocational or training emphasis, and relies in great measure on the educational processes that emphasize knowledge, abstract reasoning, intellectual curiosity, and a philosophy based on searching for the truth. Undoubtedly, one of the

major events since earlier editions of this book has been a report by the National Academy of Sciences: *Strengthening Forensic Science in the United States: A Path Forward*. This report identifies many of the problems associated with forensic examinations and laboratories in many parts of the United States, and offers a set of recommendations, many of which have become hotly debated topics within the forensic science and law enforcement communities. This is discussed more fully in Chapter 2, and the complete recommendations of this report are included in the ancillary web site.

Over the years this text has had wide appeal. Its heuristic approach to the investigative function serves to enlighten the average reader and the law enforcement investigator. But in today's world it will also serve many other kinds of investigators, including for example public prosecutors, defense attorneys, public defenders, medical examiners, fraud examiners, insurance investigators, private investigators, the media's investigative reporters, and the criminal investigation arms of the military. Each year we find new forms of investigative specialization, especially at the federal level where most federal departments now have some form of investigative unit.

The authors have reorganized parts of the text based on the suggestions of colleagues and in an effort to better accommodate the text for a quarter or semester course of study. It is now divided into three sections. The first discusses the basics of criminal investigation. The second illustrates their application to many of the major felonies. Instructors and students are given several kinds of specialized investigations and topics to choose from in the remaining section. We believe that dividing the material in this fashion has not only preserved the text's comprehensiveness, but has also rendered the material eminently more teachable. The first two sections constitute the heart of the investigative process; the last offers enrichment on special topics—to be savored as time and desire permit. Several new chapters have been added on the Influence and Impact of Technology in keeping with the growing emphasis in this area on the investigative process. The authors express their appreciation to Professor Tim Palmbach, Chair, Department of Forensic Science, and Associate Dean and Professor Virginia Maxwell, University of New Haven, for their assistance with Chapter 2, and Assistant Professor Peter Massey (UNH) for his assistance with Chapter 3.

The authors thank the many users who have commented on the readability of our text, and trust that the new material is of similar quality. Suggestions from instructors and students alike are most welcome and can be addressed by e-mail to rward@newhaven.edu.

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