

Criminal Investigation

Second Edition

James N. Gilbo

CRIMINAL INVESTIGATION

Second Edition

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for Libby and Jenne
Wife and Daughter beyond compare
and My Parents

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preface

Criminal Investigation aids in developing an analytical understanding of the investigative process. In doing so, this edition again focuses on the theoretical and practical aspects of crime solution.

An overview of the colorful history of criminal investigation is followed by discussions of contemporary concerns in criminal justice. Computer crime, informational privacy, arson, and spouse and child abuse are treated in depth, as are other more traditional topics. This edition contains current information on investigative ethics, psychological profiling, newly emerging organized crime groups, videotaping, and the use of microcomputers. Sections on each major crime have been thoroughly updated in terms of legal definition, current status, offender characteristics, and investigative techniques.

Throughout, the text stresses the importance of completely understanding all aspects of criminal evidence and strictly adhering to constitutional guarantees. The book also explains the essential interrelationship of criminalistics and the investigative process. The workings of the modern crime laboratory are presented in such a fashion that the reader will comprehend the criminalistic potential of evidence. Each chapter includes key terms, objectives, and exercises to guide the student and facilitate comprehension of pertinent concepts.

Criminal Investigation assumes no prior investigative knowledge by students. Criminal justice instructors will find that the detailed discussion allows ample latitude for their personal approaches and experiences.

acknowledgments

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one Historical Origins of Criminal Investigation

THE EVOLUTION OF THE DETECTIVE	2
DEVELOPMENT OF CRIMINALISTICS	20
LEGAL INFLUENCES ON THE DEVELOPMENT OF CRIMINAL INVESTIGATION	33

two Introduction of Basic Concepts

CRIME AND THE INVESTIGATOR	38
CRIMINAL INVESTIGATION—THE PARTIAL SOLUTION	40

three The Investigative Method

STARTING POINTS OF THE CRIMINAL INVESTIGATION	52
PHASES OF THE CRIMINAL INVESTIGATION	59

four Note-Taking and Reports

INTRODUCTION	72
NOTE-TAKING	72
REPORTS	76
A FINAL COMMENT	82

five The Crime-Scene Focus

INTRODUCTION	84
GENERAL PRINCIPLES	85
CRIME-SCENE EQUIPMENT	100
SUMMARY	101

six
Interviewing

INTRODUCTION	104
VICTIM INTERVIEWS	105
WITNESS INTERVIEWS	109
SUSPECT INTERVIEWS	114
CRIMINALISTIC APPLICATIONS	123

seven
Sources of Information

INTRODUCTION	134
HUMAN SOURCES OF INFORMATION	134
DOCUMENTARY SOURCES OF INFORMATION	144
PHYSICAL SOURCES OF INFORMATION	152
PRIVACY CONSIDERATIONS	152
SCIENTIFIC APPLICATIONS	160

eight
Burglary

OVERVIEW	166
CURRENT STATE OF BURGLARY	167
OFFENDER CHARACTERISTICS	169
BURGLARY TYPES	170
METHODS OF OPERATION	171
INVESTIGATIVE PROCEDURES	177
CURRENT FINDINGS	181
STRATEGIES TO COMBAT BURGLARY	183
CRIMINALISTIC APPLICATIONS	189

nine
Robbery

OVERVIEW	202
CURRENT STATE OF ROBBERY	203

OFFENDER CHARACTERISTICS	204
ROBBERY TYPES	205
INVESTIGATIVE PROCEDURES	211
STRATEGIES TO COMBAT ROBBERY	214
CRIMINALISTIC APPLICATIONS	217

ten

Homicide and Aggravated Assault

HOMICIDE	232
MURDER	233
AGGRAVATED ASSAULT	246
HOMICIDE INVESTIGATION PROCEDURES	248
CRIMINALISTIC APPLICATIONS	266

eleven

Rape and Sexual Offenses

RAPE	276
INVESTIGATIVE PROCEDURES	280
SEX OFFENSES	286
CRIMINALISTIC APPLICATIONS	292

twelve

Larceny

OVERVIEW	300
CURRENT STATE OF LARCENY	301
OFFENDER CHARACTERISTICS	302
MOTOR VEHICLE LARCENY	302
THEFT FROM MOTOR VEHICLES	314
SHOPLIFTING	315
CONFIDENCE SWINDLING	319
BUSINESS FRAUDS	323
WHITE-COLLAR CRIME	324
CREDIT CARD AND CHECK FRAUD	326
CRIMINALISTIC APPLICATIONS	332

CONTENTS

thirteen

Narcotics and Drug Investigations

OVERVIEW	342
NARCOTICS	343
DANGEROUS DRUGS	354
INVESTIGATIVE PROCEDURES	364
CRIMINALISTIC APPLICATIONS	379
DESCRIPTIONS OF COMMONLY ENCOUNTERED DRUGS	380

fourteen

Suspect Identification

INTRODUCTION	386
FINGERPRINTS	386
VOICE IDENTIFICATION	398
EYEWITNESS IDENTIFICATION	400

fifteen

Special Investigations

INTRODUCTION	414
DOMESTIC ABUSE	415
COMPUTER CRIME	425
ORGANIZED CRIME	433
ARSON	443

sixteen

The Investigator in Court

INTRODUCTION	456
NATURE OF CRIMINAL PROCEEDINGS	456

~ seventeen
The Future of Criminal Investigation

INTRODUCTION 466

INVESTIGATIVE CONCEPTS OF THE FUTURE 469

CRIMINALISTIC CONCEPTS OF THE FUTURE 479

Notes 483

Glossary 495

Bibliography 509

Index 513

HISTORICAL ORIGINS^{of} CRIMINAL INVESTIGATION

KEY TERMS

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| <input checked="" type="checkbox"/> Allan Pinkerton | <input checked="" type="checkbox"/> Jonathon Wild |
| <input checked="" type="checkbox"/> Alphonse Bertillon | <input checked="" type="checkbox"/> Metropolitan Police Act |
| <input checked="" type="checkbox"/> anthropometry | <input checked="" type="checkbox"/> parliamentary reward |
| <input checked="" type="checkbox"/> Bow Street Runners | <input checked="" type="checkbox"/> portrait parlé |
| <input checked="" type="checkbox"/> criminalistics | <input checked="" type="checkbox"/> thief-taking |
| <input checked="" type="checkbox"/> Eugène Vidocq | <input checked="" type="checkbox"/> Thomas Byrnes |
| <input checked="" type="checkbox"/> Fourteenth Amendment | <input checked="" type="checkbox"/> Will West case |
| <input checked="" type="checkbox"/> Industrial Revolution | |

Learning Objectives

- ☐ to understand the historical evolution of the criminal investigative process;
- ☐ to appreciate the relationship of European and American origins of criminal investigation and the criminal justice system;
- ☐ to comprehend the concept of thief-catching;
- ☐ to be able to account for similarities and differences of early American criminal investigators and their European counterparts;
- ☐ to be familiar with American investigators who were instrumental to the development of present-day criminal investigation;
- ☐ to comprehend the development of forensic science;
- ☐ to be able to list prominent European and American criminalists; and
- ☐ to understand the importance of legal influences on the development of criminal investigation.

The Evolution of the Detective

The vast history of criminal investigation can only be appreciated in the light of our distant past. Acts deemed unacceptable to a group have always been remedied by some means. In early groups, known as **tribes** or **clans**, there existed methods for detecting and resolving undesirable acts. The methods used, although primitive beyond comparison to today's, were based on assigning responsibility to a given individual or family. If a member of a particular family violated the moral code of a tribe, the other family members were held responsible for detection, apprehension, and even execution of the offending member. In these ancient times, it was not unusual for entire communities to be held responsible for criminal acts of individual members. The community was then obliged to detect from within which member had committed the act.

As civilization developed, social and cultural traditions were codified into formal laws. An early example would be the **Laws of Hammurabi**, developed in Babylon about 2100 B.C.¹ Such codification necessitated means of detecting those who refused to obey the law. The majority of individuals involved in ancient criminal detection were members of the military. The civilizations of Egypt, Rome, and Greece assigned criminal detection responsibilities almost exclusively to military units.

European Origins

During the Middle Ages, criminal detection shifted from a government responsibility to its ancient predecessor—group responsibility. A system of mutual protection, known as the **Frank-Pledge system**, again placed control of fellow human beings on the shoulders of each individual. Communities were subdivided into smaller groups consisting of ten families. The members of each subgroup, known as a **tithing**, were responsible for detecting and controlling any negative behavior on the part of a group member.² It would not be until 1066, when the Duke of Normandy conquered England, that criminal detection and public protection would again shift back to the government. From the reign of the Duke of Normandy to the early 1700s, what we now know as criminal investigation was largely unknown. What existed in its place were efforts aimed mainly at crime *prevention*. Once a crime was discovered, no matter how serious, further investigation was not pursued effectively.

Law enforcement through the seventeenth century was a conglomeration of government- and merchant-financed patrols. These early patrols, known generally as **watches**, were literally composed of the dregs of society. Ill paid, and frequently lacking even the barest elements of honest character, those manning the patrols were almost totally ineffective. Not only did the watches fail to deter criminal activity, but in some cases they aided it by their participation. An early English magistrate, Patrick Colquhoun, stated that “those very men who are paid for protecting the public are not only instruments of oppression in many instances, by extorting money most unwarrantably, but are frequently accessories in aiding and abetting or concealing the commission of crimes which it is their duty to detect and suppress.”³ In the late seventeenth century a victim of criminal wrongdoing could purchase the investigative services of a minor court official; however, it was a rare situation when any satisfactory outcome was realized.

With the advent of the eighteenth century, major population shifts began to occur in Europe. England and France (specifically, the cities of London and Paris) experienced an unprecedented rise in criminal activity. The **Industrial Revolution** was at hand and would be in effect until well into the nineteenth century. Rapid social and cultural changes marked the beginning and growth of modern industrialism. With the shifting masses of people from rural areas to metropolitan cities came the inevitable negative consequences. Suddenly, or so it seemed to Londoners, a person could not venture into the streets without the fear of being victimized. Early historical accounts of the period are filled with descriptions of rising crime, with no public or government solutions to the problem.

Criminal elements in London became so powerful that parts of the city were surrendered to them. In his *History of Crime in England*, published in 1876, L. O. Pike stated that “in practice there were criminal

quarters where the officers of justice were set at defiance, and where no man's life was safe unless he had the privilege of being an inhabitant."

The European governments struggled to keep social order in check by resorting to severe and often brutal methods of punishment. Literally hundreds of crimes became capital offenses. The stealing of a deer, counterfeiting bank notes—even the most petty of thefts became punishable by immediate death. In some criminal cases "immediate death" was not quickly forthcoming. Edward Burnworth, an English highwayman, had 424 pounds placed on his chest for over an hour before he finally confessed and was executed.⁴

The government of England, in an attempt to stop the flood-tide of crime, placed into effect a system for refunding expenses of prosecutors and witnesses, known as the **Parliamentary Reward System**. This concept attached financial rewards to various felony crimes. Upon the conviction of a felony suspect, the reward (normally 40 English pounds) was paid to those officials who were responsible for the apprehension and prosecution of the offender. In addition, those involved in the detection and arrest were rewarded the guilty party's horse, furniture, arms, money, and even personal clothing. This system proved to be a dismal failure. Police officials were accused of arresting only felony criminals, in expectation of the parliamentary reward. The system was finally abolished in 1818.

Thief-Catching. As a direct result of London's crime problems came the rather disappointing origin of modern criminal investigation. A concept known in Europe as thief-catching, or thief-taking, became widely accepted in the early 1700s. A master criminal, one **Jonathan Wild** (Figure 1.1), became London's most effective criminal investigator in the 1720s. Wild's actions made popular the logic of employing one who was a thief to catch a thief. It was utterly inconceivable to early law enforcement officials that anyone but a criminal could successfully detect crime.

Jonathan Wild was a young buckle maker in rural England when he moved to London. Before long he became well known to London's criminal element as a brothel operator. Wild conceived the novel idea of charging a fee for locating and returning stolen property to its rightful owners. His private business prospered quickly and soon expanded into apprehending criminals wanted by the government. When Wild became displeased with a member of his organization (he employed numerous criminals as assistants), he would arrest his former associate and surrender the subject to local magistrates for a reward. Such methods made Wild unpopular with the criminal element and the officials. Accordingly, he was the subject of many threats and physical attacks. On one occasion, while testifying against a former friend in

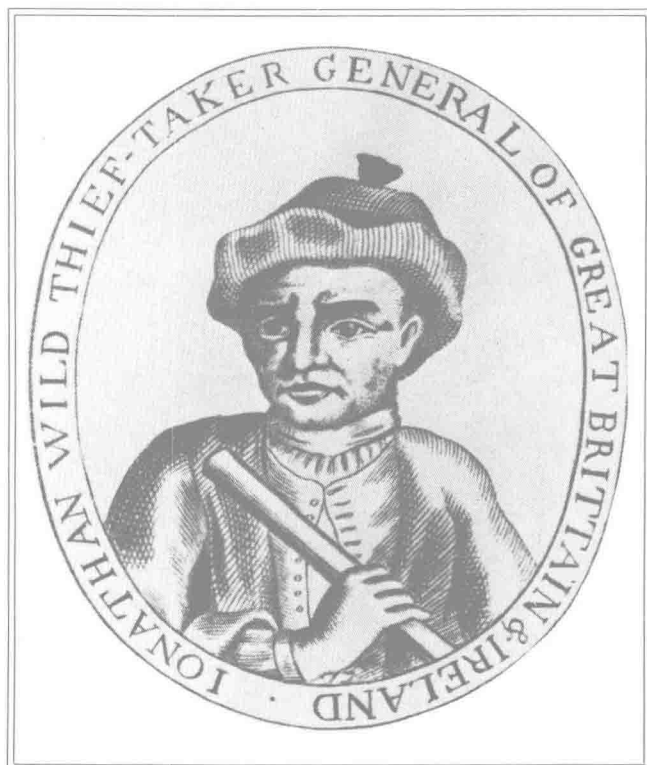


FIGURE 1.1. Early print of Jonathan Wild, English thief-catcher.
SOURCE: New York Public Library.

court, the suspect leaped at Wild in an unsuccessful attempt to cut Wild's throat.

Jonathan Wild's business operations were questionable, to say the very least. His normal method of operation, upon learning of a theft, was to persuade the thieves to give him the stolen goods in return for a portion of the money paid by the victim for the return of the property. He, like other thief-catchers to follow, was found guilty of stealing the very items returned to grateful owners. In addition, he was charged with helping a friend escape from infamous Newgate prison. Wild's career came to an abrupt end when he was executed on May 24, 1725. Despite his success at criminal detection (he was responsible for the arrest and execution of over 120 felons), the London public disliked Wild. As he was being taken to his execution site, hundreds of people jeered, showering him with stones and dirt.⁵ However, after his death, Wild became something of a folk hero. His body was disinterred and the skull and skeleton exhibited publicly as late as 1860.

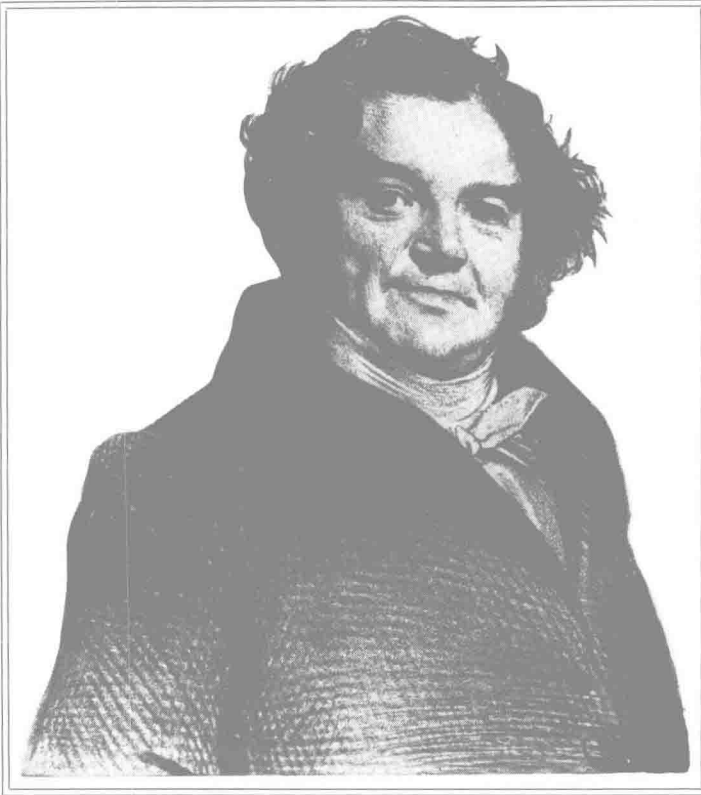


FIGURE 1.2. Eugène Vidocq, criminal turned Paris investigator.
SOURCE: New York Public Library.

Another notorious thief-catcher and former convict was **Eugène Vidocq** (Figure 1.2). Vidocq based his operations in Paris and was active some eighty years after the death of Jonathan Wild. He was equally as successful and unscrupulous as his predecessor, but Vidocq's investigative operations had one major advantage. He and those criminals under his direction operated with the complete sanction of the police. At the end of a lengthy criminal career in 1809, Vidocq offered his services as an informer to the Paris police authorities. Several years later he was arrested for counterfeiting, and again offered to inform in turn for a light prison term. The prefecture (chief of police) agreed, assigning Vidocq to inform on fellow prison inmates. For a short time Vidocq performed this function very well. In return for his services he was permitted to escape from a wagon while being transferred from one prison to another. For many years, while posing as an active criminal, Vidocq supplied the Paris police with information. As a result of his capability to detect crime, Eugène Vidocq surfaced as a secret informer in 1817 and, under police authorization, formed the first Paris police detective bureau. It initially

consisted of 4 detectives, increasing in intervals to 28. Vidocq and his fellow thief-catchers proved remarkably successful. Between January and December, 1817, with only 12 members, the squad effected 772 arrests. Those arrested included 15 murderers, 108 burglars, 5 armed robbers, and more than 250 thieves of various descriptions.⁶ Due to his unprecedented success in criminal investigation, police officials grew envious of Vidocq's ability. In response to police charges that his men were picking pockets, Vidocq ordered that his detectives wear gloves at all times, stating that a pocket can be picked only by a bare hand. Vidocq's name soon became famous throughout Europe. Changing disguises as often as ten times a day, he continued to infiltrate criminal groups. Purposely clean shaven, he would suddenly assume a full beard, changing to a moustache as he felt necessary.

After ten years of active detective work, Vidocq resigned his post—much to the relief of the Paris police. He now had sufficient capital to begin his own private investigative business. Instantly successful, Vidocq was besieged by thousands of crime victims seeking the return of stolen property. In addition to pursuing criminals and recovering stolen goods, Vidocq formed what he termed a “trade protection society.” For a fee, any shopkeeper or business establishment could obtain particulars concerning the financial solvency of new customers. At one time over 8000 shopkeepers subscribed to this service, which was the forerunner of our present-day credit check.

The Paris police officials continued to view Vidocq's operations with increasing envy and suspicion. As a result, Vidocq was arrested more than 200 times for such charges as “abuse of confidence.” He was never convicted, but the legal expense of these repeated arrests and the widely circulated rumors of dishonesty brought about Vidocq's impoverishment. For many years prior to his death in 1857, he was reduced to appearing before audiences dressed as a convict. Frequently changing costumes, he would lecture on his past adventures as a thief-catcher. His memoirs, published in Paris in 1829, did much to popularize the methods of criminal investigation in use at that time. Despite his tarnished criminal past, Vidocq is credited with founding la Sûreté, France's national detective organization.

The methods of the thief-catchers were indeed crude when contrasted with modern means. But one must consider the context in which thief-taking thrived. Victims of criminal offenses had little recourse but to employ the likes of Wild and Vidocq. At the time there existed no public agency or police institution that utilized dependable methods of criminal investigation. The prevailing law enforcement method of operation was based on the prevention of crime by police presence. When this failed, and a crime was discovered, the official investigative effort began—and ended—with the report or discovery of the criminal act. Police authorities in the eighteenth century were very reluctant to work in any