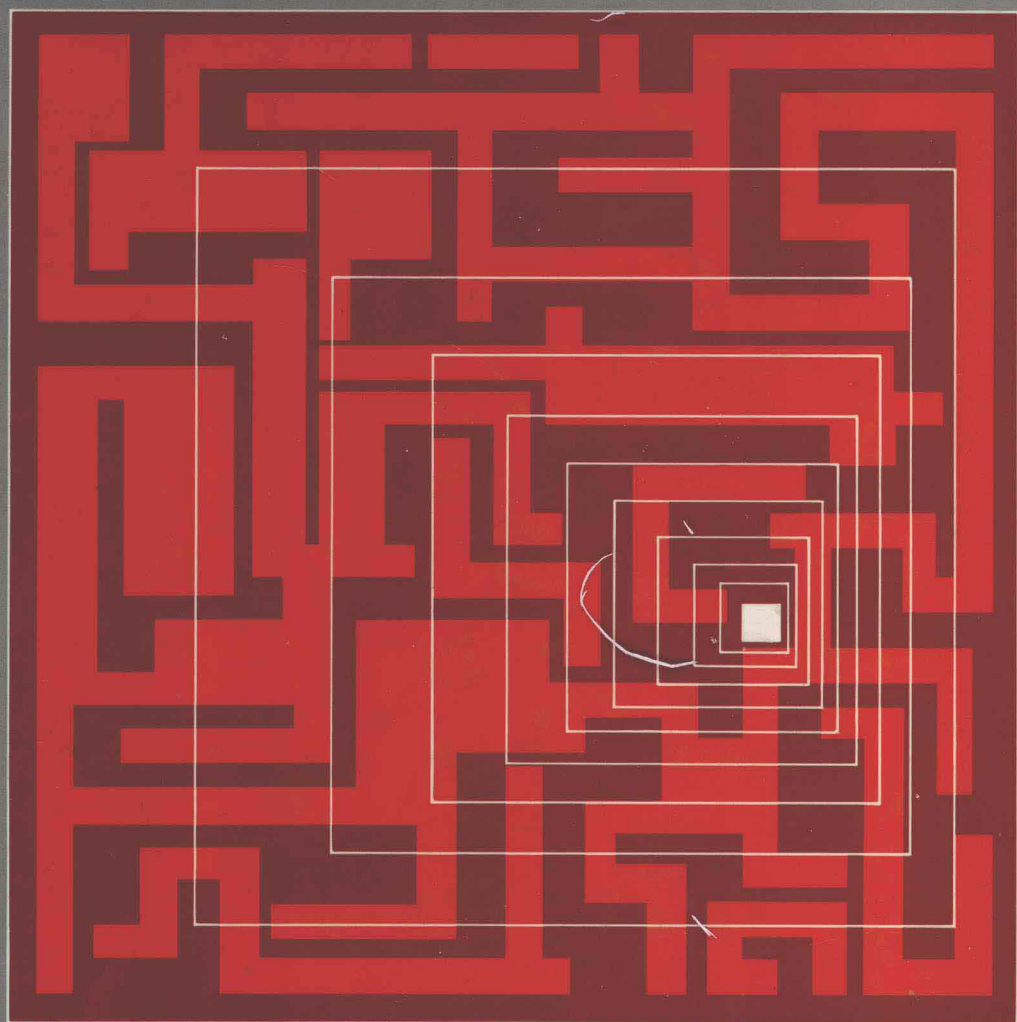


**NEW
EDITION**

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FOURTH EDITION



Paul B. Weston / Kenneth M. Wells

FOURTH EDITION

CRIMINAL INVESTIGATION

BASIC PERSPECTIVES

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WESTON, PAUL B.

Criminal investigation.

Bibliography: p. 340

Includes index.

1. Criminal investigation—United States.

I. Wells, Kenneth M. II. Title.

HV8073.W44 1985 363.2'5 0973 84-26417

ISBN 0-13-193228-4

Cover design: Wanda Lubelska
Manufacturing buyer: Ed O'Dougherty

© 1986, 1980, 1974, 1970 by Prentice-Hall, Inc.,
Englewood Cliffs, New Jersey 07632

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Printed in the United States of America

10 9 8 7 6 5 4 3 2 1

ISBN 0-13-193228-4 01

PRENTICE-HALL INTERNATIONAL (UK) LIMITED, *London*
PRENTICE-HALL OF AUSTRALIA PTY. LIMITED, *Sydney*
EDITORIA PRENTICE-HALL DO BRASIL, LTDA., *Rio de Janeiro*
PRENTICE-HALL CANADA INC., *Toronto*
PRENTICE-HALL HISPANOAMERICANA, S.A., *Mexico*
PRENTICE-HALL OF INDIA PRIVATE LIMITED, *New Delhi*
PRENTICE-HALL OF JAPAN, INC., *Tokyo*
PRENTICE-HALL OF SOUTHEAST ASIA PTE. LTD., *Singapore*
WHITEHALL BOOKS LIMITED, *Wellington, New Zealand*

Preface

The fourth edition of *Criminal Investigation: Basic Perspectives* is focused on crimes commonly encountered by police investigators. Three new chapters have been added: (1) Nonstranger Violence; (2) Forcible Rape; and (3) Abused, Sexually Exploited, and Missing Children. New chapter segments include kidnapping by terrorists, computers in investigation, and “serial” murderers. Some of the third edition chapters have been combined or shortened to save space; and the remainder has been updated to present a contemporary status-of-the-art view of criminal investigation.

This new edition is a look at criminal investigation as a system of thought and action with a new theme: the legal significance of evidence. Searching for and collecting physical evidence at crime scenes and interviewing witnesses are examined as basic aspects of criminal investigation. Basic investigative leads are presented in detail to develop a system of criminal investigation in which the crime and its circumstances are the key events. Eyewitnesses and the corroborating circumstances of motive, opportunity, and *modus operandi* are discussed in detail. Laboratory services, other scientific aids, surveillance, sources of information, police intelligence, and interrogation are presented as procedures in law and science with new standards of reasonableness and scientific method.

All aspects of the criminal investigation function of police are fully covered, from the preliminary investigation to the preparation of the case for review by the prosecutor. The police apprehension process, the continuing investigation, and the focusing of the case are handled as major segments of this function.

The emerging concept of developing negative evidence to block common defenses is fully explored in terms of the procedures used to emphasize that the investigator and prosecutor have the burden of proving the guilt of accused persons beyond a reasonable doubt.

Scrupulous accuracy in reporting the results of investigations and affirm-

ative action to dispel any allegations of unlawful activity in gathering evidence are established as guidelines to maintain an investigation as a lawful search for truth insofar as it can be disclosed in any post-factum inquiry.

The continuity of investigation is maintained along the traditional lines of what happened, who did it, and what is the measure of proof. Emphasis is placed upon solving crimes and upon the role of the investigator in exonerating the innocent and discovering and identifying the guilty. This is a new book with new ideas in crime detection and investigation.

Criminal Investigation: Basic Perspectives has been planned as a text for a college course in criminal investigation. The book is designed to develop a general understanding of the science of inquiry in the early chapters, to build on this knowledge by detailing the elements of investigation, and then to conclude with chapters concerned with how to investigate crimes of violence and crimes against property. The illustrations move the story throughout each chapter, providing additional understanding.

This is a book for police science students, police officers, investigators, attorneys, and others interested in a system of criminal investigation tested on the street and in the courtroom. It is a view and overview of the science of inquiry by an attorney who has prosecuted and defended criminal cases and a police officer who has investigated crimes ranging from theft to homicide.

The authors are indebted to many friends in criminal justice agencies and in criminal justice education for their help in the preparation of this fourth edition of *Criminal Investigation: Basic Perspectives*.

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1 The Criminal Investigation Function of Police

Criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omission and the mental state accompanying it. It is a probing from the known to the unknown, backward in time, and its goal is to determine truth as far as it can be discovered in any post-factum inquiry.

Successful investigations are based on fidelity, accuracy, and sincerity in lawfully searching for the facts of an event under investigation and on an equal faithfulness, exactness, and probity in reporting the results of an investigation. Investigators are persons who stick to the truth and are absolutely clear about the time and place of an event and the measurable aspects of evidence. They work throughout their investigation fully recognizing that even a minor contradiction or error may destroy confidence in their investigation.

Some people believe successful police investigations result from intuition or some flash of inspiration or imagination, as in the tradition of Sherlock Holmes. On the other hand, students exposed to old-school detectives are led to believe police investigations are routine, plodding legwork requiring little imagination and no inspiration. Recently, a belief has developed among many persons both in and out of the field of criminal justice that all problems of criminal investigation can be solved quite simply by microscopic examination and laboratory analyses. The truth lies somewhere among the three viewpoints. Criminal investigation involves a close relationship between innovative thinking and diligence and between the investigator in the field and the investigator in the laboratory—the police scientist. Investigators and police scientists work together as a team, reacting to and extending one another's theories and findings, both working patiently and thoroughly to reconstruct a crime from their investigative discoveries.

The joining of science with traditional criminal investigation techniques

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offers new horizons of efficiency in criminal investigation. New perspectives in investigation bypass a total or major reliance upon informers and custodial interrogation and increasingly utilize a skilled scanning of the crime scene for physical evidence and a search for as many witnesses as possible. Mute evidence tells its own story in court, either by its own demonstrativeness or through the testimony of an expert witness involved in its scientific testing. Such evidence may serve in lieu of, or as a corroboration of, informers, custodial interrogation, and testimonial evidence of witnesses found and interviewed by police in an extension of their responsibility to seek out the truth of all the circumstances of a crime happening. An increasing certainty in solving crimes is possible and will contribute to the major deterrent of crime—the certainty that a criminal will be discovered, arrested, and convicted.

Hans Gross (1847–1915) was the earliest advocate of criminal investigation as a science. Gross was a native of Austria, born in Graz. Educated in law, he became interested in investigation while serving as an examining magistrate. He became a professor of criminology at the University of Vienna. Perhaps it was the legal training, or the education in rational theory that is joined with the study of law, that made Magistrate Gross unhappy with the lack of science in police investigation. In any event, he deserves credit for developing a system of investigation. His *System der Kriminalistik*, translated into English and published in 1906, is a classic text in this field.¹

Gross was an advocate of scrupulous accuracy and high ethics in criminal investigation. His greatest contribution to the introduction of science in criminal investigation was the advocacy of a parallel system of inquiry based upon the crime scene. Gross disliked the dependence of criminal investigation upon an informant or a detective's knowledge of the underworld and became the leading exponent of crime reconstruction. He rejected the informer or undercover agent and even considered the testimony of honest witnesses as suspect under certain conditions, consistently expressing his belief that technical proof uncovered or developed by scientific methods far surpassed information or testimonial evidence.

Computer technology now offers an adaption of scientific technology to criminal investigation, and Gross's parallel system of inquiries lends itself to the data storage and analysis capability of computers. All the diverse information common to an investigation can be organized and examined systematically. It is a new potential and one with great promise for investigators.

POLICE OPERATIONS

The criminal investigation function of police is a part of police operations having as objectives the prevention of crime, the apprehension of criminals, and the recovery of stolen property. It is closely aligned with the apprehension process by which police search for and apprehend criminal offenders (see Figure 1-1). It begins with the first notice of an event suspected of being a crime and

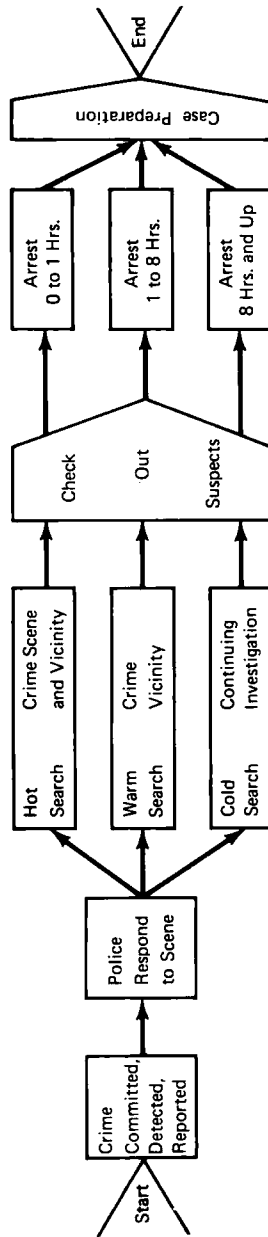


Figure 1-1 Police apprehension process.

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concludes when the investigation is successful or the case is closed without results.

This apprehension process is as follows:

1. A crime is reported, discovered, or detected.
2. Police officers respond.
3. A search is conducted for the perpetrator of the crime. It may be either (a) a "hot" search of the crime scene, (b) a "warm" search in the general vicinity of the crime, or (c) a "cold" investigative search.
4. Throughout the search, suspects appear and have to be checked out.
5. If the search is successful, evidence to support a charge is assembled, and the suspect is apprehended.²

The objectives of police investigators are therefore aligned with this apprehension process. Immediate action concerns whether a crime has been committed, and if so, the specific crime. Then the goals are to gather information and evidence that will identify the offender, lead to his apprehension, and assist in his prosecution.

Cases not solved in the initial phase of the apprehension process are assigned either to an investigative specialist in medium and large police agencies or in smaller police agencies to an experienced uniformed officer, who functions as a part-time investigator. In many cases no special investigative effort is vital to a solution of the crime; many offenders are arrested under circumstances requiring little more than a collating of plain evidence of clear legal significance. In other cases, despite skill in making logical deductions from information and evidence gathered during an investigation, diligence beyond established work standards, and past experience in similar cases, the investigation is unsuccessful.

The preliminary investigation is the first step in discharging the police investigation function. It should establish whether the necessary elements of a crime exist. The investigator should gather and report all information obtainable at the scene of the crime at the time of initial police response and contact with the victim and any witnesses. The continuing investigation is a second step taken when a postponement of the work of investigation will not jeopardize the successful completion of the investigation.

The nature of the crime and the relationship between the time of the occurrence and the time of apprehending the perpetrator determine whether or not the event will be promptly investigated in any depth. When the perpetrator is promptly arrested at or near the scene of the crime, the limits of a preliminary investigation may be extended. If an extensive search for and interview of witnesses is needed, or if an extensive search of the crime scene for physical evidence is necessary, a continuing investigation may begin immediately.

Homicides, felonious assaults, “bunco” frauds, drug, and vice cases are prime examples of this type of case. Some criminal acts are of a nature that require detection. They normally would go undiscovered and unreported, except for an alert investigator seeking knowledge of clandestine criminal operations. The preliminary and continuing investigations merge in detecting and investigating such cases as arson, the racketeering activities of organized crime operations, and suspicious deaths. To insure adequate available personnel with specialized knowledge and abilities for in-depth investigations, as well as the time that is necessary for this work, police agencies usually designate a “detective bureau” or an “investigation division” as the organizational segment responsible for criminal investigation. In medium and large police agencies this segment generally is divided into functional units such as property crimes unit (burglaries and larcenies), and a physical crime unit (homicides, assaults, robberies, and rapes).

THE PRELIMINARY INVESTIGATION

The preliminary investigation is part of the duties and responsibilities of the first police officer at the scene. It is directly concerned with the arrest of the guilty person or persons at the scene or in flight from the place of the crime and the initial crime-scene processing and recording of all factual data. It should be completed prior to developing investigative leads. Of course, hot leads that develop in this period should be acted upon without delay. The preliminary investigation is a phase of the total investigation during which the following duties should be completed:

1. Establish whether a crime has been committed; arrest the perpetrator, and determine the type of crime by category, and, if possible, by specific classification.
2. In eyewitness cases, secure a description of the perpetrator, his vehicle (if any), and direction of flight; transmit data to the dispatcher for radio broadcasting to other police as an alarm or “want.”
3. Locate and interview the victim and witnesses; record stories and take statements, when warranted; secure and accurately record identity, addresses, and other necessary data for future contacts.
4. Protect the crime scene; search for and collect objects and traces that are obviously evidence or likely to be evidence; mark evidence for identification and protect it from change, loss, damage, or contamination; safeguard it to protect its integrity by maintaining control from the time the evidence is found to the moment it becomes an exhibit in the prosecutor’s case.
5. Determine how the crime was committed, the extent of personal injuries, and the nature and value of property taken.
6. Record in field notes and sketches all data about the crime, the stories of the various participants and witnesses, the crime-scene search and evidence collected and its disposition, measurements taken at the scene, and other pertinent

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nent information; arrange for a photographic summary of the crime scene and major items of evidence; make required reports.

The scene of the crime is the focus of the preliminary investigation. Enroute to the scene, the assigned investigator plans his action upon arrival and reviews the problems usually connected with any crime scene. There may be other officers present upon the investigator's arrival, in which case it will not be necessary to act out the duties of the first officer to arrive at the scene. An investigator must be a calm individual who knows what he is doing and how to do it, and he must act out this role. Confidence in one's work performance begins with a plan. An orderly sequence of work gives a basic feeling of security—particularly after an investigator gains experience and is familiar with any type of crime scene, so that he can have the I've-been-here-before feeling.

The first step in processing a crime scene for clues and evidence is an accurate survey of the surroundings and a careful evaluation of the situation—what is often described as “a long, hard look.” Deliberate action at this time guards against false moves and mistakes. The impact of the overall picture of the scene upon an experienced investigator will provide guidelines for modifying a base plan of action. The assigned investigator must ascertain as soon as possible where the crime happened. Usually the crime scene is readily discernible.

Problems sometimes have arisen in assault cases when the victim was intoxicated at the time of the crime and could not report accurately the place of the attack. In thefts, when property may have been taken from two or more locations, it is sometimes difficult to pin down the exact place of the “taking.” The major problem, however, arises in homicide cases when the victim is found at a site apparently not the crime scene or when later investigation by police or medicolegal experts indicates that the body of the victim was moved prior to discovery.

When the investigator is certain of the place of occurrence, he describes its location exactly. If the scene is within a building, the description of the scene includes its location within the building and the street address of the building or some other means of locating the building if it does not have a street address. If the crime is in the open, the scene generally will be delineated by measurements from fixed reference points or landmarks located by a street address or some other similar identification. If the crime scene is an automobile, boat, or other vehicle, the vehicle will be fully identified and its location thoroughly described. The description of the place of a crime must include the name of the county in which it is located and the name of the city, if the crime happened within municipal boundaries.

During the on-the-scene investigation, the time of the crime should be established, if possible, and reported accurately. It is of vital importance to the entire investigation. Time is a factor in comparing the stories told by all the persons involved in the crime. The time can easily be established when

the victim is alive and conscious or when reliable witnesses are available, but ascertaining the time of a crime is sometimes difficult when a witness is not available.

In crimes of stealth such as burglary and larceny, the time of the occurrence requires diligent inquiry. When were the burglarized premises locked up? When was the missing property last seen? Sometimes burglars enter the home of sleeping persons at night without awakening their victims; or property taken in a larceny is discovered missing under circumstances that offer no clues as to the time of the theft. In such burglaries and larcenies the time of the crime can only bracket the possible time of the entry and the theft. The period cited as the time of the crime is set between known times: first, the time of locking up a home or store, or the time when missing property was last seen; and second; the time the crime was discovered.

In homicide cases the investigator may be able to determine the specific time of the crime from the stories of witnesses or physical evidence, and the time of death from the findings of the medicolegal expert in his postmortem examination as well as from evaluation of other evidence.

The work of the preliminary investigator concentrates on three of the basic elements of investigation: searching the crime scene, collecting and preserving evidence found at the scene, and locating and interviewing witnesses available at or about the crime scene. When crimes are not witnessed or when a reliable witness cannot be located at this stage of the investigation, the investigative leads likely to produce a solution to the crime will originate with physical evidence found at the crime scene.

When a victim names the perpetrator of a crime or other evidence quickly identifies the person responsible, an arrest may be made during or shortly after the search of the crime scene is completed. In this event, the case may be cleared by an arrest prior to the close of the preliminary investigation.

When offenders are not apprehended as above, the solution of the crime usually depends upon the preliminary investigator obtaining relevant evidence likely to identify the suspect, and crime partners (if any). The case-clearance potential during the continuing investigation is increased when the preliminary investigator reports that a suspect has been named, is known to the victim and/or witnesses, or has been previously seen by the victim and/or witnesses. When a vehicle is used in a crime, information on the vehicle's color, description, and license is the next-most-important information likely to lead to the identification of the suspect and possible associates.³

THE CONTINUING INVESTIGATION

A continuing investigation begins after the preliminary investigation is completed and reviewed. It encompasses all the work necessary for the identification and apprehension of the offender and the full development of the case.

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The continuing investigation is best described as encompassing the cold-investigative-search phase of the police apprehension process.

An overview of the total investigation, at this midpoint of developing basic leads, may be helpful as a frame of reference. The following are included in a continuing investigation:

1. Follow up the preliminary investigation and initiate or continue inquiries among basic investigative leads to the identification and arrest of the perpetrator and associates, if any.
2. Develop and revise a scheme of the crime.
3. Analyze the legal significance of information and evidence.
4. Continue the search for witnesses, the liaison with witnesses interviewed during the preliminary investigation, the interviews with new witnesses, and the necessary reinterviews with original witnesses.
5. Establish liaison with laboratory technicians and assess the reports of their analyses of physical evidence.
6. Identify the perpetrator and accomplices, if any.
7. Locate and arrest the perpetrator and accomplices, if any; prepare wanted notices for perpetrator and associates, if any.
8. Conduct appropriate surveillance, interrogation, and lie-detector testing.
9. Recommend suspension of the case if an arrest is not made in a reasonable time.
10. Prepare the case and confer with the prosecutor.

A reasonable period of time in which to expect an apprehension varies with the seriousness and complexity of the case. Assigned investigators often encounter temporary setbacks in a continuing investigation and must distinguish between these blocks and real dead ends. When an investigator believes his work on the case has exhausted all promising leads, it is within his duty to recommend that the case be suspended or closed.

The investigator is responsible for bringing an investigation to a successful conclusion, for exonerating innocent persons involved in the case, and for focusing the investigation upon the guilty person. The responsibility for developing evidence that will further the investigation, lead to the identification and apprehension of the offender, and assist in his prosecution is placed upon the assigned investigator. In effect, it is a command responsibility in that it is ultimate.

In many police agencies the follow-up work involved in a continuing investigation is segmented, so that individual leads, rather than the entire case, are assigned to an investigator. The assignment is considered complete when the basic inquiries along avenues suggested by the lead are completed and a report of work done is filed by the investigator. Of course, if this inquiry led to the perpetrator of the crime, the case would be closed by an arrest made

either by the investigator whose inquiry disclosed the perpetrator or by another person.

RECONSTRUCTING THE CRIME: A RATIONAL THEORY

In the reconstruction of a crime the investigator seeks a rational theory of the crime. In some cases the reconstruction may begin with deductive reasoning, assuming a theory of the crime and attempting to support it by a careful appraisal of how the information collected in the investigation supports the theory. More likely, inductive reasoning is used; the collected information is analyzed carefully to develop a theory of the crime. In most cases the investigator uses a mixture of the two methods of reasoning, one to back up the other, to develop a rational theory about the case under investigation. A rational theory is more than a learned guess, but less than a certainty. However, it should have a very high order of probability.

Sometimes, a rational theory of crime is developed intuitively while thinking out all the possible theories. It can come about abruptly and surprisingly. Such insight results from a combination of expertise and diligence. An informant may supply a tip that suddenly will bring a case into sharp focus. The happy circumstance of a lead in one case developing a major suspect in another case is not unknown.

More often, a rational theory of a crime is developed from an incautious or careless action by the perpetrator. Experienced detectives do not believe that these careless acts are the result of stupidity, and in support of this point of view they cite the forethought and caution of the criminal in planning and staging the crime. In case after case no one can be located who witnessed the crime, but fingerprints or other scientific evidence that link the suspect to the victim or to the crime scene are found; or the crime-scene search may yield little evidence, but an eye-witness is located who identifies a suspect. Criminologists believe the faulty acts, carelessness, negligence, and improvidence of the classic *Verbrecherpech* or "criminal's bad luck" are an unconscious or subliminal act aiming at self-betrayal.

It may be, fortunately for investigators, that one of the major traits of a criminal is vanity, for his belief in his own cleverness, not chance, is the key factor in his leaving his "card"—a vital clue. In any event, investigators look for mistakes, errors that alert them and direct their inquiry toward the fact that a crime did happen and that a specific individual is the guilty person. It is an accepted advantage that may out-weigh all the handicaps of working backward in reconstructing the circumstances of a crime and who did it.

The solution of a crime is often based on a sudden alertness by the investigator to a trifle among the information collected, and this is often the *Verbrecherpech* clue.

FOCUSING THE INVESTIGATION

In the general inquiry about a crime the investigator attempts to gather as much information as possible to reconstruct the crime as it happened and to develop a group of suspects including the guilty person or persons. When the investigation focuses, all of the investigative work is pointed toward proving one suspect and his accomplices, if any, guilty of the crime.

To conclude that a general inquiry into an unsolved crime has suggested the guilt of a suspect with sufficient clarity to focus the remainder of the investigation on collecting evidence against this suspect requires a decision by the investigator; this is the linking up of the theory of the crime with a suspect. The investigator's decision should be based on an analysis of the relationship among the crime, the investigation, and the suspect. Primary consideration is given to the collected information, but of equal importance are the personal characteristics, the personality, the attitudes, and the habits of the suspect. The total man or woman is considered. Does the total suspect fit the skill, knowledge, benefit, and motive factors? Has the suspect a previous criminal history in which his *modus operandi* can be compared for similarities? Is there any evidence of justification or alibi that would either excuse the act done or place the suspect elsewhere at the time of the crime? Was there a need created by any kind of psychological drive mechanism for this suspect to commit this crime at this time?

In the evaluation of the suspect, an investigator with some expertise has learned that a criminal is more than a criminal. John, Jane, and Richard are not just a burglar, a prostitute, and a killer; they are persons with specific habits and personality traits. John is a burglar with hostility who is willing to enter premises that may be occupied. Jane is prostitute who wants a little more than pay for services rendered and who has been suspected of working with a fists-and-feet robbery gang, enticing her Johns (customers) to secluded areas where they are robbed. Richard is an accidental, a person who, in a fit of passion, killed the girl who rejected him. This knowledge of an individual does not come from long acquaintance or friendship but from an in-depth knowledge of specific interests and a group of specific habits.⁴

In focusing a case, the investigator uses a study of the *things done*. In burglaries and thefts, what property was stolen? In robberies, what force or fear was used to accomplish the crime? In sex cases, who was the victim and what was the sex act? And in any crime, what is the violence—or more accurately, the unnecessary violence? The essential elements specified by the language of the law separate events constituting crimes on a broad spectrum, but categorization by *things done* subdivides these events into discrete units suitable for comparison with the theory of the crime, with the information collected, and with a major suspect as a person.