

FIFTH EDITION

CRIMINAL INTERROGATION AND CONFESSIONS

FRED E. INBAU
JOHN E. REID
JOSEPH P. BUCKLEY
BRIAN C. JAYNE

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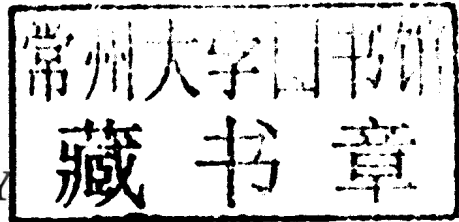
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PREFACE

John E. Reid graduated from law school during the great depression and opened a private law practice. With clients being few and far between, he joined the Chicago police department walking a beat as a patrol officer. At this same time, Fred Inbau was a young professor of law at Northwestern Law School. The two of them became close friends and shared a common interest in developing scientific techniques to assist law enforcement agencies to learn the truth during criminal investigations.

On February 14th, 1929, two Chicago gangs engaged in a shootout in a Chicago alley which left an abundance of forensic evidence, but no means to analyze the evidence to identify the perpetrators of the crime. In response to the St. Valentine's day massacre, the Northwestern crime laboratory was established to assist police in fighting organized crime. In 1933, Fred Inbau became its first director.

While the focus of the crime lab was on ballistics, it also offered other forensic services, including lie detection. Initially, Leonarde Keeler was the crime lab's polygraph examiner but he left to open a private practice and taught Inbau the lie detection techniques he had developed. For a number of years Inbau was actively involved in conducting examinations and interrogations but his responsibilities as director frequently called him away from the polygraph lab. He believed that his friend John Reid would make a good polygraph examiner and offered Reid the position.

In the 1930s the polygraph technique was very crude and, more or less, represented a prop to obtain confessions. However, John Reid recognized the potential value of rendering opinions of truth or deception based strictly on recording physiological changes within a suspect. After experimenting with various questioning techniques, he developed what has been called the greatest single advancement in the polygraph technique, the control question. Reid also recognized the importance of obtaining respiration recordings from both the thoracic and abdominal regions and patented a device for detecting unobserved muscle movements by suspects who tried to "beat" the polygraph.

John Reid was a compassionate man and highly interested in studying human behavior. For example, he observed that truthful suspects appeared to display different attitudes and behaviors during their polygraph examinations than deceptive suspects. After many years of meticulous documentation, Reid developed categories of what he called "behavior symptoms" which seemed to be indicative of truth or deception. Reid also experimented with specialized interview questions he called "behavior provoking questions" because innocent suspects tended to answer these questions in a manner different from guilty suspects. These questions serve as the foundation for the structured Behavior Analysis Interview presented in this text.

While the polygraph technique was very beneficial to eliminate innocent suspects, polygraph results were not admissible as evidence to help convict a guilty suspect. To obtain

this evidence required a confession from the guilty party. In the 1930s criminal interrogation consisted of breaking the suspect's story down piece by piece after hours of intense and intimidating questioning with the hope of walking out of the room with a confession or partial admission. Inbau and Reid developed a completely different approach to interrogation—one in which the interrogator expressed understanding and sympathy toward the suspect's decision to commit the crime. Rather than try to frighten the suspect into confessing, the interrogator made statements designed to persuade the suspect that it is important for him to tell the truth. Reid was a master at using this approach and, during his career, obtained in excess of 300 murder confessions. Inbau's primary contribution, perhaps as a result of observing Reid's interrogations from behind the one-way mirror, was that deceptive suspects often went through predictable steps or stages during the course of an interrogation, eventually leading to the "Nine Steps of Interrogation."

In 1947 Reid left the crime laboratory to start his own firm, John E. Reid and Associates. He continued his interest in developing techniques to detect deception and to learn the truth through the interrogation process. For example, Reid went into prisons to interview convicts on death row in order to understand how these people thought about their crimes and why they confessed to him. This practice has continued—we have gone into prisons to interview gang members, child molesters, rapists, robbers, and other criminals to understand how they justify their criminal behavior and what their thoughts were when being interviewed or interrogated.

During the 1990s John E. Reid and Associates was awarded three research contracts by the National Security Agency to study detection of deception techniques. The company continues to contribute our expertise by publishing studies and articles in the field of interrogation and detection of deception, working with the Innocence Project in freeing individuals from prison who have been wrongfully convicted and sharing our knowledge by conducting training seminars.

The Reid Technique of Interviewing and Interrogation is now taught in seminars across the United States, Canada, Europe, and Asia. With hundreds of thousands of investigators having received this training, an updated authoritative text describing the proper and improper applications of the technique has become necessary. In recent years there has been an increased frequency in which investigators have been asked in court to describe specific interrogation techniques and the underlying principles surrounding the Reid Technique. To address these issues, this new edition of *Criminal Interrogation and Confessions* has been published. John E. Reid passed away in 1982. Tragically, during the early stages of the preparation of the fourth edition, Professor Fred E. Inbau died from injuries sustained in a traffic accident. Joseph P. Buckley, co-author of the third edition, continued on with the revisions. He enlisted the assistance of Brian C. Jayne, who also authored the psychology appendix in the third edition. Both Buckley and Jayne have been fortunate enough to study under the late John Reid and to work closely with Fred Inbau in various publications.

This fifth edition not only provides the investigator with updated information related to interviewing and interrogation (research findings, new case law, etc.), but also presents behavior symptom analysis from a slightly different perspective. In past editions we have listed behavior symptoms of “truth” or “deception.” While we clearly indicated that assessments of truth or deception represent an inference made by the investigator which incorporates a number of underlying assessments, in the last several years researchers have ignored these underlying assessments presenting findings that misrepresent our categories of “truthful” or “deceptive” behavior symptoms. Hopefully, with this new perspective, investigators (and researchers) will have a better understanding of behavior symptom analysis. This edition also incorporates a number of new interrogation techniques that John E. Reid and Associates presents during their one day advanced training course. It is, indeed, the most contemporary version of The Reid Technique.

The authors would like to thank attorneys James Manak and Deborah Borman for writing the legal section of this text. We also offer our sincere thanks to current members of John E. Reid and Associates who have contributed to the development of the techniques presented in this text. These individuals are Louis Senese, Daniel Malloy, William Shrieber, James Bobal, David Buckley, Mark Reid, Michael Masokas, Michael Adamec, and the late Arthur Newey.

High-resolution, color versions of the photos found throughout this text are available for free download at <http://www.jbpub.com/catalog/9780763799366>

INTRODUCTION

In this introduction, we have deemed it advisable to present the following discussion of the practical need for interrogation as an investigatory process. Although the discussion is obviously not required for persons who are directly involved in or well acquainted with the practicalities of law enforcement or private security investigations, it deals with certain aspects of interrogation that should alleviate some of the reservations, or even the strong negative feelings, that some persons and groups have about the criminal interrogation process in general.

There is a gross misconception, generated and perpetuated by fiction writers, movies, and TV, that when criminal investigators carefully examine a crime scene they will almost always find a clue that will lead them to the offender; furthermore, once the criminal is located, he or she will readily confess or otherwise reveal guilt, as by attempting to escape. This, however, is pure fiction. As a matter of fact, the art and science of criminal investigation have not developed to a point where the search for and the examination of physical evidence will always, or even in most cases, reveal a clue to the identity of the perpetrator or provide the necessary legal proof of guilt. In criminal investigations, even the most efficient type, there are many instances where physical clues are entirely absent, and the only approach to a possible solution of the crime is the interrogation of the criminal suspect himself, as well as of others who may possess significant information. In most instances these interrogations, particularly of the suspect, must be conducted under conditions of privacy and for a reasonable period of time. They also frequently require the use of psychological tactics and techniques that could well be classified as “unethical,” if evaluated in terms of ordinary, everyday social behavior.

To protect ourselves from being misunderstood, we want to make it unmistakably clear that we are unalterably opposed to the so-called third degree, even on suspects whose guilt seems absolutely certain and who remain steadfast in their denials. Moreover, we are opposed to the use of any interrogation tactic or technique that is apt to make an innocent person confess. We are opposed, therefore, to the use of force, threats of force, or promises of leniency. We do approve, however, of psychological tactics and techniques that may involve deception; they are not only helpful but frequently indispensable in order to secure incriminating information from the guilty or to obtain investigative leads from otherwise uncooperative witnesses or informants.

Private security officers are frequently confronted with the same type of problems encountered by the police. Commercial enterprises sustain enormous losses due to thievery on the part of employees. In addition, incidents of internal sabotage, arson, sexual harassment, and illegal drug use by employees are common in the workplace. A large percentage of those cases can only be resolved by the interrogation of suspected persons.

Our position, then, may be presented in the form of three separate points, each accompanied by case illustrations:

1. Many criminal cases, even when investigated by the best qualified police departments, are capable of solution only by means of an admission or confession from the guilty individual or upon the basis of information obtained from the questioning of other criminal suspects.¹

As to the validity of this statement, we suggest that consideration be given to the situations presented by cases such as the following. A man is hit on the head while walking home late at night. He does not see his assailant, nor does anyone else. A careful and thorough search of the crime scene reveals no physical clues. Or, a woman is grabbed on the street at night and dragged into an alley and raped. Here, too, the assailant was not accommodating enough to leave his wallet or other means of identification at the crime scene, and there are no physical clues. All the police have to work on is the description of the assailant given by the victim herself. She describes him as about six feet tall, white, and wearing a dark jogging suit. Or consider this case: Three women are vacationing in a wooded resort area. They are found dead as a result of physical violence, alongside a foot trail, and no physical clues are present.

In cases of this kind—and they all typify the difficult investigation problems that the police frequently encounter—how else can they be solved except by means of the interrogation of suspects or others who may possess significant information?

There are times, too, when a police interrogation may result not only in the apprehension and conviction of the guilty, but also in the release of the innocent from well-warranted suspicion. The following is one such case within our own professional experience. The dead body of a woman was found in her home. Her skull had been crushed, apparently with some blunt instrument. A careful police investigation of the premises did not reveal any clues to the identity of the killer. No fingerprints or other significant evidence were located; not even the lethal instrument itself could be found. None of the neighbors could provide any helpful information. Although there was some evidence of a slight struggle in the room where the body lay, there were no indications of a forcible entry into the home. The deceased's young daughter was the only other resident of the home, and she had been away in school at the time of the crime. The daughter could not give the police any idea of what, if any, money or property had disappeared from the home.

For several reasons, the police considered the victim's husband a likely suspect. He was being sued for divorce, he knew his wife had planned on leaving the state and taking their daughter with her, and the neighbors reported that the couple had been having heated arguments and that the husband had a violent temper. He also lived conveniently near—in a garage adjoining the home. The police interrogated him and, although his alibi was not conclusive, his general behavior and the manner in which he answered the investigator's questions satisfied the police of his innocence. Further investigation then revealed that the deceased's brother-in-law had been financially indebted to the deceased, that he was a frequent gambler, that at a number of social gatherings he had attended money

disappeared from some of the women's purses, that at his place of employment there had been a series of purse thefts, and that on the day of the killing he had been absent from work. The police apprehended and questioned him. As the result of a few hours of competent interrogation—unattended by any abusive methods, but yet conducted during a period of delay in presenting the suspect before a committing magistrate—the suspect confessed to the murder. He told of going to the victim's home for the purpose of selling her a radio, which she accused him of stealing. An argument ensued and he hit her over the head with a mechanic's wrench he was carrying in his coat pocket. He thereupon located and took some money he found in the home and also a diamond ring. After fleeing from the scene, he threw the wrench into a river, changed his clothes, and disposed of the ones he had worn at the time of the killing by throwing them away in various parts of the city. He had hidden the ring in the attic of his mother's home, where it was found by the police after his confession had disclosed its location. Much of the stolen money was also recovered or else accounted for by the payment of an overdue loan.

Without an opportunity for interrogation, the police could not have solved this case. The perpetrator of the offense would have remained at liberty, perhaps to repeat his criminal conduct.

2. Criminal offenders, except those caught in the commission of their crimes, ordinarily will not admit their guilt unless questioned under conditions of privacy and for a period of perhaps several hours.

This point should be readily apparent not only to anyone with any criminal investigative experience, but also to anyone who will reflect momentarily upon the behavior of ordinary law-abiding persons when suspected or accused of nothing more than simple social indiscretions. Self-condemnation and self-destruction not being normal behavioral characteristics, human beings ordinarily do not utter unsolicited, spontaneous confessions. They must first be questioned regarding the offense. In some instances, a piece of information inadvertently given to a competent investigator by the suspect may suffice to start a line of investigation that might ultimately establish guilt. On other occasions, a full confession—with a revelation of details regarding a body, loot, or instruments used in the crime—may be required to prove the case. Whatever the possible consequences may be, it is impractical to expect any but a very few confessions to result from a guilty conscience unprovoked by an interrogation. It is also impractical to expect admissions or confessions to be obtained under circumstances other than privacy. Here again, recourse to everyday experience will support the basic validity of this requirement. For instance, in asking a personal friend to divulge a secret or embarrassing information, we carefully avoid making the request in the presence of other persons and seek a time and place when the matter can be discussed in private. The same psychological factors are involved in a criminal interrogation, and to an even greater extent. For related psychological considerations, if an interrogation is to be held at all, it must be one based upon an unhurried interaction with the suspect, the necessary length of which will in many instances extend to several

hours, depending upon various factors, such as the nature of the case and personality of the suspect.

3. *In dealing with criminal offenders, and consequently also with criminal suspects who may actually be innocent, the investigator must of necessity employ less refined methods than are considered appropriate for the transaction of ordinary, everyday affairs by and between law-abiding citizens.*

To illustrate this point, let us revert to the previously discussed case of the woman who was murdered by her brother-in-law. His confession was obtained largely by the investigator adopting a friendly attitude in questioning the suspect, when admittedly no such genuine feeling existed; feigning sympathy for the suspect because of his difficult financial situation; suggesting that perhaps the victim had done or said something that aroused the suspect's anger and would have aroused the anger of anyone else similarly situated to such an extent as to provoke a violent reaction; and resorting to other similar expressions, or even overtures of friendliness and sympathy, such as a pat on the suspect's shoulder. In all of this, of course, the interrogation was "unethical" according to the standards usually set for professional, business, and social conduct, but the pertinent issue in this case was no ordinary, lawful, professional, business, or social matter. It involved the taking of a human life by someone who abided by no code of fair play toward his fellow human beings. The killer would not have been moved one bit toward a confession by being subjected to a reading or lecture regarding the morality of his conduct. It would have been futile merely to give him a pencil and paper and trust that his conscience would impel him to confess. Something more was required—something that was in its essence an "unethical" practice on the part of the investigator—but under the circumstances involved in this case, how else would the murderer's guilt have been established? Moreover, let us bear this thought in mind: From the criminal's point of view, any interrogation is unappealing and undesirable. To him it may be a "dirty trick" to encourage him to tell the truth, for surely it is not being done for his benefit. Consequently, any interrogation might be labeled as deceitful or unethical, unless the suspect is first advised of its real purpose and told of the ploys the investigator will use to accomplish that purpose.

Of necessity, therefore, investigators must deal with criminal suspects on a somewhat lower moral plane than that upon which ethical, law-abiding citizens are expected to conduct their everyday affairs. That plane, in the interest of innocent suspects, need only be subject to the following restriction: Although both "fair" and "unfair" interrogation practices are permissible, nothing should be done or said to the suspect that is apt to make an innocent person confess.

There are other ways to guard against abuses by criminal investigators short of taking the privilege away from them or by establishing unrealistic, unwarranted rules that render their task almost totally ineffective. We could no more afford to do that than we could stand the effects of a law requiring automobile manufacturers to place governors on all cars so that, in order to make the highways safer, no one could go faster than twenty miles an hour.

Footnote

- ¹Research indicates that forensic evidence is collected in less than 10 percent of cases investigated by the police. Of that collected, only about half undergoes scientific analysis. F. Horvath and R. Meesig, "The Criminal Investigation Process and the Role of Forensic Evidence: A Review of Empirical Findings" *J. Forensic Sci.* (Nov. 1996).

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PART 1

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**Preliminary
Considerations**

