Police-Induced Confessions, 2.0: Risk Factors and Recommendations - Reid Comments

In 2010 an article entitled, "Police-Induced Confessions: Risk Factors and Recommendations" was published - Law Hum Behav 2010 Feb; 34(1):49-52. Recently a draft of an updated version was circulated for comment. The updated article is entitled: *Police-Induced Confessions, 2.0: Risk Factors and Recommendations.* It is replete with misinformation about the Reid Technique.

Before proceeding with our Comments regarding the updated draft article, we believe that it would be helpful to the reader for us to briefly review the 2010 Article that took issue with the "totality of circumstances" approach used by the United States Supreme Court in Frazier v. Cupp (1969). The 2010 Article sharply criticized the Supreme Court's decision in Frazier v. Cupp and the American Courts for using the "totality of circumstances" approach. The Article states that American Courts are likely to find a confession is voluntary and admissible unless it was accompanied by "physical brutality or deprivation, threats of harm or punishment, promises of leniency or immunity and flagrant violations of a suspect's constitutional rights." (pg. 27) It also states that "as illustrated by the Reid Technique and other similar approaches, the modern police interrogation is, by definition, a guilt-presumptive and confrontational process-aspects of which put innocent people at risk." (pg. 27)

To the contrary, as the hundreds of thousands of law enforcement officers and private security personnel have learned over the past 50 years, the Reid Technique does not put innocent people at risk. Rather, the Reid Technique teaches law enforcement officers what the law permits them to do and what the law prohibits them from doing when interviewing and interrogating criminal suspects for admissions or confessions to be found voluntary and admissible in subsequent criminal proceedings.

The draft updated Article now attacks the Reid Technique by making many erroneous and misleading statements about its teaching regarding Reid's Behavior Analysis Interviews, Reid's method of conducting interrogations, Reid's teaching regarding the minimization of the moral and psychological consequences and when and what kind of misrepresentations and lies should be avoided. Each of these erroneous and misleading statements are more fully discussed below.

Article Statement

"The Reid technique occurs in two stages. Prior to commencing interrogation, they recommend a pre-interrogation interview aimed at using demeanor and other behavioral cues to detect whether prospective suspects are lying or telling the truth……The BAI consists of 15 to 20 "behavior provoking questions" (pages 19-20)

Reid Response

Our investigative interview process is called the Behavior Analysis interview or BAI. The authors completely misrepresent the Reid interview process.

Ironically, one of the recommendations in this draft article is that investigators "Adopt Science-Based Investigative Interviewing Practices." The authors describe a "science based investigative interview" as follows:

- the development of cooperation via rapport and trust
- the elicitation of information using productive questioning that enhances a subject's recollection;
- the use of strategic questioning and assessment of verbal or story-based cues to evaluate credibility;
- the strategic withholding of evidence as a way to identify statement-evidence inconsistencies and resolve a subject's responses to discrepancies." (Pages 98-99)

That is exactly what the Reid Interview process is. The Reid interview process is a non-accusatory, non-confrontational information-gathering conversation. At the outset of the interview, the investigator must be sure to comply with all legal requirements, such as the appropriate advisement of rights.

It is imperative that throughout the interview, the investigator maintains an objective, neutral, fact-finding demeanor.

The investigative interview should consist of three types of questions:

- questions about the subject's background
- questions that are relevant to the specific issue that is under investigation
- behavior-provoking questions

The background questions generally focus on biographical information about the subject, which may include questions about the subject's employment activities or if the subject is a student, their school activities; and, they generally include some casual conversation about recent events (a news item, a sports event, a weather situation, etc.).

The purpose of spending several minutes on these topics is to establish rapport with the subject to acclimate the subject to the interview environment and, most importantly, to establish a behavioral baseline – the subject's normal behaviors (posture, eye contact, use of illustrators, verbal characteristics, etc.).

The investigative questions will deal with the issue that is under investigation. One of the principles that we teach in our training programs is that the investigator nshould not tell the subject what they know. Rather, they should ask the subject an open-ended question such as,

What happened?
What did you see or hear?
What were your activities on the day in question?

and see if what the subject tells the investigator is consistent with what the investigator already knows from the investigation or from interviewing other individuals. [On our YouTube channel, *The Reid Technique Tips*, we have a video presentation discussing this practice – Do No Tell the Subject What You Know….]

After the subject relates their initial story or version of events the investigator will then ask a series of questions to develop additional details, as well as questions to clarify the who, what, when, where, why, and how of the incident that is under investigation. During the interview, the investigator should attempt to resolve any inconsistencies or contradictions that may have surfaced from the interviews of other subjects or from the investigative information. If the subject offers an alibi for the period in question, every effort should be made to substantiate the alibi. We encourage investigators to follow the 80/20 rule – during the interview the subject should do 80% of the talking and the investigator should do 20%.

The third type of question that we utilize in the interview is called a behavior-provoking question (BPQ). BPQs are questions that most truthful individuals answer one way, while deceptive individuals often answer in a completely different manner. The investigator will present these questions as casual inquiries. Here is an example of two behavior-provoking questions from a child sex abuse investigation:

> The THINK question: "John did you ever think about engaging in sexual activities with any of the children here at the daycare facility?"
> ANSWER: "I think that everyone working here has thoughts like that."
>
> The PUNISHMENT question: "Jim, what do you think should happen to a staff member who has engaged in sexual activities with any of the children?"
> ANSWER: "Well, I guess it depends on how often it happened."

The Investigative Questions are the core of the interview process. At no time during the interview process should there be any accusations of guilt. In our book, Criminal Interrogation and Confessions we devote over 100 pages discussing the proper way to conduct an investigative interview.

The Reid investigative interview process very obviously involves much more than the disingenuous characterization in the article that it is just 15 to 20 behavior provoking questions.

Article Statement

"In the Reid technique, investigators are trained to conduct the BAI, a pre-interrogation interview aimed at determining from a suspect's demeanor whether that suspect is telling the truth or lying, and hence worthy of interrogation. In laboratories all over the world, extensive research has shown that many of the cues that investigators are trained to use (e.g., eye contact, changes in posture, emotionality) are not empirically diagnostic of deception; that laypeople on average are only 54% accurate; and that training and experience are not associated with reliable improvements" (pages 24-25)

Reid Response

Many of the laboratory studies that are referenced involved students who were instructed to "commit a crime" such as entering an office and stealing money out of a desk drawer. Half of the students were then assigned to be innocent individuals and half were assigned to be guilty individuals. The "investigator" would then interview each of the subjects and try to determine if each subject is a truthful or deceptive individual.

An example of another study format is one in which inmates were asked to describe on camera the details of two different crimes that they committed. One story was true and the other story was false – the viewer is asked to determine which is which.

There are a number of reasons that these types of studies yield poor results in determining who is a truthful individual versus who is a deceptive person:

- The subjects (students/prisoners/others) had low levels of motivation to be believed or to avoid detection… there were minimal if any consequences if they failed in their attempt to convince or mislead the investigator/audience
- The interviews of the subjects were not conducted by investigators trained in investigative interviewing techniques
- The studies did not employ the type of structured interview process that is commonly utilized by investigators in the field
- In most studies, there was no attempt to establish a behavioral baseline for each subject so as to identify changes from their normal behavioral pattern as they answered investigative questions
- The research was based on the faulty premise that there are specific behavior symptoms that are unique to truth or deception – there are none
- There was no consideration given to the various factors that can affect a person's behavioral responses:
  - Age/maturity
  - Cultural influences
  - Mental capacity
  - Emotional and psychological stability
  - The subject's physical condition at the time of the interview (drugs, alcohol, medical issues, etc.).
- Furthermore, in most research studies the interview is evaluated in a vacuum. In the real world, the investigative interview of a subject takes place in the context of an investigation. For example, by the time the investigator interviews a suspect they may already have developed information about the subject's relationship with the victim, their whereabouts at the time of the crime, their financial situation, and other relevant background information. They may have developed evidence that implicates the suspect – eyewitnesses, DNA, trace evidence, etc.
- In the research studies the investigator is typically conducting the interview without any background information as to how the suspect fits into the investigation.
- In the real world, the investigator makes a judgment about the suspect's possible involvement in the commission of the crime under investigation based on the case

evidence and facts and the information developed during the interview. Whereas in laboratory studies you generally only have the "interview."

Consider the "inmate" study… in reality, if a person acknowledges that they committed a crime the investigator would then ask a series of questions to develop and substantiate the details of what the subject did in the commission of the act…..oftentimes the subject's lack of knowledge and specificity regarding the details will signal suspicion regarding his culpability. This questioning did not occur in the inmate study.

In the Reid Technique, we teach that several rules should be followed in the evaluation of a subject's behavior symptoms:

- Establish the subject's normal behavioral pattern/baseline and then look for changes from that norm or baseline
- Read all nonverbal behavior for timing and consistency
- Read behavioral clusters - the overall behavioral pattern - not single, isolated observations
- Always evaluate behavior symptoms in conjunction with the case evidence and facts
- Always evaluate the potential impact of possible factors such as the subject's mental capacity, psychological stability, maturity, culture, and physical well-being on their behavior symptoms

If these rules are followed investigators can be reasonably accurate in assessing a subject's credibility.

Unfortunately, these assessment rules were not followed in the majority if not all of the research studies referenced.

Article Statement

The article refers to interrogation as a "guilt-presumptive process." (page 26)

Reid Response

It is interesting to note that the authors refer to interrogation (and specifically the Reid Technique) as a "guilt presumptive" process – that investigators interrogate persons whom they believe to be guilty… that there is a pre-judgment made.

We do interrogate individuals when the case facts, evidence, and information developed during the interview indicate their probable involvement in committing the issue that is under investigation.

The opposite of interrogating individuals whom the investigator believes to be guilty based on the case evidence and information would be to interrogate all subjects, whether or not there was any evidence indicating their possible involvement – a situation that would be completely unacceptable.

Article Statement

"To ensure privacy and control, investigators using the Reid technique are trained to remove suspects from friends, family, and familiar surroundings and question them in the police station, alone—preferably in a small, bare, windowless, soundproofed interrogation room, seating in a hard-back chair." (Pages 26-27)

Reid Response

We do recommend that interviews and interrogations take place in a private setting, but we never teach investigators to detain non-custodial suspects or to isolate suspects and prevent them from contacting others. In a custodial interrogation, the suspect is advised of their Miranda rights and if they invoke any of those rights the interrogation is immediately terminated.

We never teach or recommend that the interrogator should try to increase the suspect's feeling of despair or hopelessness. We teach that it is improper to tell the suspect that he is facing inevitable consequences. We reference numerous cases in our book in which threatening inevitable consequences can be a high-risk factor in causing a false confession.

It is interesting to note that the US Supreme Court understands the need for interrogations to be conducted in a private setting. In the case *Culombe v. Connecticut* (1961) 367 U.S. 568, 579 the Supreme Court stated that "Often the place of questioning will have to be a police interrogation room because it is important to assure the proper atmosphere of privacy and non-distraction if questioning is to be made productive."

We never teach that the subject should be seated "*in a hard-back chair."* In our book we state that "the chairs (for both the investigator and subject) should be the type normally used as office equipment….straight-back chairs should be used for the suspect as well as the investigator." Whenever possible the seating arrangement should be such that both the investigator and the subject are at the same eye level. Avoid chairs with lowered front legs or other deviations that place the suspect in an "inferior" posture or prevent him from making normal changes in his posture."

Article Statement

In their analysis of 125 proven false confessions, Drizin and Leo (2004) found, in cases in which custodial interrogation times were recorded, that 34% lasted 6 to 12 hours, that 39% lasted 12 to 24 hours, and that the mean was 16.3 hours—far in excess of prevailing norms. (Page 27)

Reid Response

The most common circumstance supporting a claim of duress is the length of an interrogation. At what length an interrogation approaches the level of duress associated with an involuntary confession is individually defined. A guideline to follow in this regard is whether or not investigators intentionally prolonged the interrogation and kept the suspect isolated as an

interrogation tactic to "break his will." Similarly, duress may be alleged if a tag-team approach is used during an interrogation, where one investigator questions the suspect for hours and is then relieved by a second "fresh" investigator.

A properly conducted interrogation that lasts three or four hours, for the ordinary suspect, is certainly not so long as to cause the levels of emotional or physical distress that constitute duress. However, if physical coercion was involved, even a 30-minute interrogation may warrant such a bona fide claim.

Article Statement

Presentations of False Evidence…. At times, American police will overcome a suspect's denials by presenting supposedly incontrovertible evidence of guilt (e.g., a fingerprint, hair sample, eyewitness identification, or failed polygraph)—even if that evidence does not exist….. (page 29)

Reid Response

In 1969 the United States Supreme Court upheld the use of misrepresenting evidence to the subject. The case was *Frazier v. Cupp* (394 U.S. 731). In that case, the Supreme Court upheld the admissibility of the defendant's confession, which, in part, was the result of the police falsely telling the subject that his accomplice had confessed.

The Court held that the misrepresentations were relevant, but that they did not make an otherwise voluntary confession inadmissible. In reaching this conclusion, the Court judged the materiality of the misrepresentation by viewing the "the totality of circumstances."

It is important to highlight the Court's reference to an "otherwise voluntary confession," the clear implication being that if the subject's rights were honored; if there were no threats of harm or inevitable consequences; if there were no promises of leniency; and if the investigator followed the guidelines established by the courts, then misrepresenting evidence, in and of itself, will not jeopardize the admissibility of the confession.

This same assessment has been reiterated in several cases and studies.

In *State v. Kolts* (205 A.3d 504, 2019) the Supreme Court of Vermont upheld the defendant's confession that was made in response to the detective's false claim that there was DNA evidence to prove his guilt.

In *Commonwealth v. Gallett* (481 Mass. 662, 2019) the Supreme Judicial Court of Massachusetts upheld the admissibility of the defendant's confession… from the opinion:
"Gallett argues that the interrogating officers misrepresented evidence that strengthened their case and made false assurances that ultimately induced Gallett into making inculpatory statements. We conclude that the officers did not act impermissibly." In their opinion, the MA Supreme Court pointed out that: "We have suppressed a defendant's statements in circumstances where police use trickery or a ruse in obtaining a confession. Those cases generally have additional circumstances -- apart from the ruse itself -- that rendered the confession involuntary.

“The Court pointed out that these additional circumstances included “coercive tactics relating to defendant’s son”; minimizing “the legal gravity of the alleged crime”; suggesting to the defendant that “if he did not confess he would be charged with more serious crimes”; after defendant invoked his right to counsel, “dissuaded defendant from consulting with lawyer”; and, “implicitly promised leniency as well as alcohol counseling if defendant confessed”.

In *State v. Johnson* (2018 WL 627063) the Court of Appeals of South Carolina upheld the voluntariness of the defendant’s confession, indicating the misrepresenting evidence is not a coercive tactic: “Both this [c]ourt and the United States Supreme Court have recognized that misrepresentations of evidence by police, although a relevant factor, do not render an otherwise voluntary confession inadmissible .... The pertinent inquiry is, as always, whether the defendant's will was ‘overborne.’"

Consider the court’s opinion in *US v. Graham* (2014 WL 2922388 (N.D.Ga.)) in which the court pointed out that misrepresenting evidence is “one factor to consider among the totality of the circumstances in determining voluntariness.” The court points out that there are a number of cases in which statements elicited from a defendant in response to police deception were found involuntary…but the court stated, "these cases all involve significant aggravating circumstances not present here, such as, subjecting the accused to an exhaustingly long interrogation, the application of physical force or the threat to do so, or the making of a promise that induces a confession.”

There is a consistent consensus by the courts that lying about evidence in an “otherwise voluntary confession,” will not render a confession inadmissible.

It is the view of the courts that behaviors such as threats of harm or inevitable consequences, denial of rights, promises of leniency or other such coercive behaviors will jeopardize the admissibility of the subject’s confession.

According to false confession experts, oftentimes social psychologists, there are two sources of research that support their belief that misrepresenting evidence causes false confessions. “First, studies of actual cases reveal that the false evidence ploy….. is found in numerous wrongful convictions in the U.S., including DNA exonerations.”

In the first 250 DNA exonerations, there were 40 false confession cases, several of which included lying to the subject about the case evidence…. However, a review of those cases found that “Many, and perhaps most, of the interrogations in the cases Garrett reviewed crossed the line of proper interrogation technique through the use of explicit threats and promises, feeding suspects crime facts, and/or other coercive practices.” Leo and Davis

In another research effort, the author who studied the first 110 DNA exoneration cases reported that “This study failed to find a single false confession of a cognitively normal individual that did not include the use of coercive tactics by the interrogator…” The author identified coercive interrogation tactics as “the use of physical force; denial of food, sleep or bathroom; explicit threats of punishment; explicit promises of leniency; and extremely lengthy interrogations.” (J. Pete Blair)

As this research and several of the previously referenced court decisions have found, misrepresenting evidence in an otherwise proper interrogation does not cause innocent people to confess, but the "aggravating circumstances" within the interrogation (threats, promises of leniency, denial of rights, etc.) can create an environment conducive to a coerced and/or false statement.

According to social psychologists, a second basis for believing that misrepresenting evidence causes false confessions is found in laboratory experiments that have tested the hypothesis that false evidence leads innocent people to confess to acts that they did not commit.

The first of these studies, commonly known as "the Alt-key Study," required students to perform a data entry project and warned them not to hit the computer's Alt key, which would cause the computer to crash. So while the students were entering the data the researchers forced the system to crash, falsely accused the students of hitting the Alt key, and confronted them with a "witness" who reported seeing them do so. Under these circumstances, a number of the students signed written confessions despite their innocence.

In a second study, students were given a set of assignments and told that in some assignments collaboration with classmates was acceptable, while in others it was prohibited. The researchers then accused innocent students of improperly collaborating on certain assignments, informed them that they had violated university rules that prohibited cheating, and, for some, minimized the extent of their wrongdoing and encouraged them to take responsibility for their actions.

Half of the students were falsely told that there was a hidden video camera in the room which would eventually reveal their guilt or innocence. Under this circumstance, the majority of the guilty suspects confessed and half of the innocent suspects who were advised about the camera confessed. However, as it turned out, these innocent participants did not confess to helping the other person at all. Rather, they were asked to sign a prepared statement to the effect that they improperly collaborated with their classmates, but they were reassured that if the hidden camera exonerated them, they would not get into any trouble by signing the statement. The truthful subjects were confident that the video would confirm their innocence, so they had no problem signing the statement.

In the real world, this kind of subterfuge would be like telling a murder suspect to sign a statement that he killed the victim but assuring him that if his DNA was not found at the scene of the crime his written confession would be destroyed.

<u>Article Statement</u>

"However, purveyors of the Reid technique use minimization tactics, in a process known as "theme development," through which promises unspoken may well be implied. Typically accompanied by expressions of sympathy and understanding, a detective might provide face-saving excuses and/or downplay the moral seriousness of an offense by suggesting to suspects that their actions were spontaneous, accidental, provoked, peer-pressured, alcohol-induced, or otherwise justifiable by factors outside the suspect's control." (Page 33)

"In three studies, Kassin and McNall (1991) tested the hypothesis that minimizing would lead people to infer leniency in punishment. College students read the interrogation of an actual murder suspect. (Page 35)

The transcript was edited to produce three versions: One in which the detective made a promise of leniency in exchange for confession, a second in which he made minimizing remarks by blaming the victim, and a third in which neither statement was made. Participants read each version and then estimated the sentence they thought would be imposed on that suspect. Compared to the no-techniques control group, subjects who read the minimization transcript had lower sentencing expectations – as if an explicit promise had been made.

It is interesting to note that the authors of the above experiment do point out that, "*because our findings are based on inferences drawn by college students, relatively uninvolved but highly educated observers, it remains to be seen whether similar inferences are drawn by real crime suspects*."

Reid Response

The emphasis of the Reid Technique is to create an environment that makes it easier for a subject to tell the truth. An essential part of this is to suggest face-saving excuses for the subject's crime which may include projecting blame away from the subject onto such elements as financial pressure, something the victim did or said, an accomplice, emotions, or alcohol…. In other words, minimizing the moral seriousness of the suspect's behavior or the psychological consequences of their behavior.

The third type of minimization is to minimize the legal consequences of the subject's behavior, which we teach never to do.

In "Saul Kassin, et al, "Police-Induced Confessions: Risk Factors and Recommendations" Law Hum Behav (2010)" the authors agreed with us, stating that interrogation procedures should "permit moral and psychological forms of minimization, but ban legal minimization."

Our training is very specific that the excuses (interrogation themes) that the investigator discusses should minimize the moral seriousness of the subject's crime by offering psychological excuses for the crime but not removing legal consequences. Consider the following excerpts from our book Criminal Interrogation and Confessions:

"During the presentation of any theme based upon the morality factor, caution must be taken to avoid any indication that the minimization of the moral blame will relieve the suspect of criminal responsibility."

"….. the interrogator must avoid any expressed or intentionally implied statement to the effect that because of the minimized seriousness of the offense, the suspect is to receive a lighter punishment."

“In applying this technique of condemning the accomplice, the interrogator must proceed cautiously and must refrain from making any comments to the effect that the blame cast on an accomplice thereby relieves the suspect of legal responsibility for his part in the commission of the offense.”

Courts consistently find it acceptable for an investigator to minimize the moral seriousness or psychological consequences:

In *Commonwealth v. Cartright*, the Massachusetts Supreme Court stated that “....Nor have we concluded that an interviewing officer's efforts to minimize a suspect's moral culpability, by, for example, suggesting theories of accident or provocation, are inappropriate…”

The Supreme Court of Canada stated:

"There is nothing problematic or objectionable about police, when questioning suspects, in downplaying or minimizing the moral culpability of their alleged criminal activity. I find there was nothing improper in these and other similar transcript examples where [the detective] minimized [the accused’s] moral responsibility.” *R. v. Oickle*, [2000] 2 S.C.R. 3, 2000 SCC 38

In *Gomez v. State* the US District Court stated the following: … “Investigators can suggest the defendant may not have been the actual perpetrator or may not have intended a murder victim to die.....Suggestions by investigators that killings may have been accidental or resulted from a fit of rage during a drunken blackout fall far short of promises of lenient treatment in exchange for cooperation.”

In *State v. Belonga* (2012) the Supreme Court of New Hampshire upheld the admissibility of the defendant's incriminating statements, finding that police can use minimization techniques. In this case the defendant claimed that the interrogator’s "minimization of the possible causes of Rylea's [her child] injuries affected the voluntariness of her statements."

To reiterate, minimizing the moral seriousness of the suspect’s behavior or the psychological consequences of their behavior are acceptable techniques, but minimizing the legal consequences of the subject’s behavior or threatening inevitable consequences or more severe punishment if they do not confess are clearly unacceptable.

Article Statement

John Reid and Associates continues to argue that lying is a necessary evil, effective without risk to innocent suspects (Inbau et al., 2013). (Page 96)

Reid Response

We have published on our website the “Reid Policy on the Use of Deception During an Interrogation” which includes a number of policy recommendations, including the following:

- Investigators should consider the impact that misrepresenting evidence to the subject may have on a jury's or court's perception of their credibility.

- Investigators should be sure to check with their local prosecutors as to their views and recommendations regarding misrepresenting evidence to a subject and should be familiar with court decisions in their jurisdiction on this issue. Specific prohibitions against the use of deception may vary within each jurisdiction.

- Investigators should not misrepresent any evidence to a suspect who acknowledges that he may have committed the crime even though he has no specific recollections of doing so.

- Investigators should not misrepresent any evidence when interrogating a youthful suspect with low social maturity or a suspect with diminished mental capacity or psychological disabilities.

- Investigators should not use deception to threaten inevitable consequences.

- Investigators should never fabricate evidence or lie about potential leniency.

- Given current judicial and legislative trends regarding the use of deception during an interrogation, investigators should adopt a general practice of avoiding misrepresentations concerning incontrovertible or dispositive evidence.

The core principles of the Reid Technique are:

- Do not make any promises of leniency
- Do not threaten the subject with any physical harm or inevitable consequences
- Do not conduct interrogations for an excessively lengthy period of time
- Do not deny the subject any of their rights
- Do not deny the subject the opportunity to satisfy their physical needs
- Withhold information about the details of the crime from the subject so that if the subject confesses the disclosure of that information can be used to confirm the authenticity of their statement
- Exercise special cautions when questioning juveniles or individuals with mental or psychological impairments
- Always treat the subject with dignity and respect
- The confession is not the end of the investigation – investigate the confession details in an effort to establish the authenticity of the subject's statement

We also recommend the following Best Practices:

*Conduct an interview before an interrogation***.** Absent a life-saving circumstance the investigator should conduct a non-accusatory interview before engaging in any interrogation. During the interview, the investigator can establish rapport with the suspect, assess their credibility, develop

investigative information, and establish a behavioral baseline. Also, during the interview, the suspect is more likely to reveal information that can be used to develop an interrogation strategy.

Conduct an interrogation only when there is a reasonable belief that the suspect is guilty or withholding relevant information. The belief that a suspect is guilty of a crime or is withholding relevant information may be based upon investigative information, evidence, the suspect's demeanor, or verbal responses to interview questions. The investigator should avoid conducting an accusatory interrogation as a technique to separate innocent from guilty suspects.

*Consider a suspect's behavior in conjunction with case facts and evidence***.** The assessment of a suspect's credibility during an interview will be enhanced and likely more accurate if it is based not only on the suspect's verbal and nonverbal behavior but also on case facts (the suspect's established opportunity, access, motive and propensity to commit the crime) as well as forensic or testimonial evidence.

*Attempt to verify the suspect's alibi before conducting an interrogation***.** The most efficient means to prove a suspect's innocence is to verify his or her purported alibi. Conversely, when it is determined that the suspect provided a false alibi, this finding offers support for the suspicion of the suspect's probable guilt.

Do not threaten the suspect's well-being or make threats of inevitable consequences. It is clearly improper to threaten a suspect, directly or indirectly, with physical harm or pain. This would include threats directed at the suspect's family members or loved ones in an effort to obtain a confession. Similarly, an investigator should never attempt to falsely convince a suspect that he or she is in a helpless situation and that the only way to avoid an inevitable consequence is by confessing.

Do not offer the suspect promises of leniency. An investigator should not offer the suspect a quid pro quo promise of leniency in exchange for a confession. In other words, there should be no promise that the suspect will receive a less severe punishment if the suspect confesses.

Do not deny the suspect his legal rights. An investigator is legally obligated to honor a suspect's rights whether it be a custodial suspect's Miranda rights, a military suspect's Article 31 rights or, within the private sector, a union member's rights.

When interrogating a non-custodial suspect, do not deprive the suspect from his freedom to leave the room. The suspect's exit from the interrogation room should not be blocked by positioning the investigator's chair between the suspect's chair and the door. The room should not be locked from the inside (requiring a key to open the door) and the room should not be in an area that requires a key or pass code to exit the building. Finally, the investigator should not make verbal statements implying that the suspect is not free to leave the room, e.g., "You're not going anywhere until we get this clarified!"

Do not conduct excessively long interrogations. In most instances, if the suspect is still adamantly maintaining his innocence and has not made any incriminating statements or admissions after three to four hours of interrogation the interrogation should be re-assessed and

most likely terminated.

Exercise extreme caution when interrogating juveniles, suspects with a lower intelligence or suspects with mental impairments. This class of suspect is more susceptible to false confessions and, therefore, the investigator should be cautious in utilizing active persuasion such as discouraging weak denials, overcoming objections or engaging in deceptive practices. Proper corroboration of a confession will be critical with this class of suspect.

When using interrogation tactics involving deception the investigator should not manufacture evidence against the suspect. Courts make a distinction between false verbal assertions, e.g., "We found your fingerprints in her bedroom." which are permissible and manufacturing evidence, which is not permissible. An example of manufacturing evidence is taking the suspect's fingerprints and transferring the prints to an evidence card which indicates that the prints were found in the victim's bedroom.

When a suspect claims to have little or no memory for the time period when the crime was committed the investigator should not lie to the suspect concerning incriminating evidence. While it is not uncommon for guilty suspects to feign memory loss, an overriding concern is an innocent suspect who experiences true memory loss for the time period when the crime was committed. Under this circumstance, if the investigator lies to the suspect about incriminating evidence and the suspect confesses, it may be argued that presenting false evidence caused an innocent suspect to believe that he had committed the crime.

Do not reveal to the suspect all information known about the crime. A legally admissible confession should include corroboration. One form of corroboration is information only the guilty suspect would know, e.g., the method of entry in a burglary, a memorable statement made to a victim, the denomination of money stolen, etc. When interviewing a suspect or offering information to the news media, the investigator should carefully guard this protected information so that the only person who would know it would be the investigator and the person who committed the crime.

Attempt to elicit information from the suspect about the crime that was unknown to the investigator. The best form of corroboration is information not known to the investigator about a crime that is independently verified as true. Examples of independent corroboration include the location of a knife used to kill the victim, where stolen property was fenced or the present location of a car the suspect stole.

*The confession is not the end of the investigation***.** Following the confession the investigator should investigate the confession details in an effort to establish the authenticity of the subject's statement, as well as attempt to establish the suspect's activities before and after the commission of the crime.

In conclusion, failure to follow the best practices of the Reid Technique will not necessarily result in a false or inadmissible confession. However, if these best practices are followed there is an extremely high probability that a confession will be a true statement of guilt and that the

confession will be admitted as evidence against the defendant at trial. Consequently, an investigator should always strive to follow these best practices.