

The Disingenuous Testimony from Social Psychologists About the Reid Technique

Richard Leo, and other false confession experts (oftentimes social psychologists), have testified that “there is a consensus in the scientific community that the techniques taught by the Reid method sometimes lead to or are involved in false confession cases.” And that “some of those techniques are risk factors for a false confession.” Leo has further testified that “it’s part of the generally accepted knowledge that the Reid method trains police in techniques that are associated with and believed to sometimes cause false confessions.” And that there is “substantial empirical research that the Reid method can become psychologically coercive.” And that “the Reid Behavioral Interview method has been discredited.”

Leo describes the Reid Behavior Analysis Interview as ‘the investigator asks 15 or 20 hypothetical questions and evaluates whether the subject is telling the truth or lying based on their answers and body language, and that can become the basis for interrogating somebody.... and that has been discredited.’

Let’s take a look at the veracity of these statements.

It has been well documented by numerous court decisions that false confessions are not caused by the application of the Reid Technique, but are usually caused by interrogators engaging in coercive behaviors that the courts have ruled to be objectionable, such as

- threatening inevitable consequences
- making a promise of leniency in return for the confession
- denying a subject their rights
- conducting an interrogation for an excessively long period of time
- denying the suspect an opportunity to satisfy their physical needs
- threatening the subject with a more severe punishment if they do not confess
- physically harming the suspect or threatening to do so, etc.

In one research effort, the author studied the first 110 DNA exoneration cases reported by the Innocence Project. The author 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, such 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, “A Test of the Unusual False Confessions Perspective: Using Cases of Proven False Confessions” *Criminal Law Bulletin* (Vol 41, Number 2)

In fact, Leo has testified on numerous occasions that “when innocent people falsely confess, there’s almost always some threat and/or some promise.... So threats and promises typically go together, and in the proven false confession cases, they are in a very high percentage of those cases.”

Leo and all false confession experts know that for decades (as we will see later in this text) Reid has practiced, published, and taught that all investigators should adhere to the following principles of practice:

- * Always treat the subject with dignity and respect
- * Always conduct interviews and interrogations in accordance with the guidelines established by the courts
- * Do not make any promises of leniency or threats of 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
- * Exercise special cautions when questioning juveniles or individuals with mental or psychological impairments
- * Do not physically abuse the subject or threaten to do so

So what is Leo talking about when he says that there is “Substantial empirical research that the Reid method can become psychologically coercive,” and that “the Reid Behavioral Interview method has been discredited?”

Leo is making these statements on the sole basis of one issue – specifically that academic research has reported that investigators are “no better than chance” at determining if a subject is truthful or deceptive based on their verbal and nonverbal behaviors during the investigative interview. So based on this purported “lack of accuracy” in assessing a subject's credibility, Leo is suggesting that investigators oftentimes end up interrogating innocent people... some of whom give false confessions.

Leo and others are trying to make the case that because Reid includes in their training programs information about evaluating a subject’s verbal and nonverbal behaviors during the investigative interview, and because academic research has found that such an investigative assessment is unreliable...Reid is teaching techniques that can lead to the interrogation of innocent individuals and in some cases false confessions.

Let’s take a look at what is the actual structure of the Reid investigative interview process – the Behavior Analysis Interview (BAI), and what exactly is the academic research that Leo and others use as the basis for this assessment.

The Reid Behavior Analysis Interview (BAI) is a non-accusatory, non-confrontational investigative interview that is our first contact with the subject. During the BAI the investigator is a neutral, objective, non-judgmental fact finder. At the outset of the interview, the investigator must be sure to comply with all legal requirements, such as the appropriate advisement of rights, contacting a juvenile’s parents or guardian as required by law, etc.

The BAI consists of three types of questions: questions about the subject’s background; questions relevant to the specific issue that is under investigation; and behavior-provoking questions.

The background questions generally focus on biographical information about the subject and may include questions about the subject’s employment activities or if the subject is a student,

their school activities; and, they may 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 some rapport with the subject, to acclimate the subject to the interview environment, and, most importantly, to establish a behavioral baseline for the subject – their normal behavioral patterns (posture, eye contact, use of illustrators, etc.).

The investigative questions deal with the issue that is under investigation. One of the first questions that the investigator should ask is an open-ended question that invites the subject to tell their story. If it is a victim, what happened? If it is a witness, what did they see or hear? If it is a suspect, what were their activities on the day in question? After the subject relates their initial story or version of events the investigator will then ask a series of questions to develop additional details and to clarify the who, what, when, where, why, and how of the incident that is under investigation.

The investigative questions are the core of the interview process, and the subject's answers can be critical. For example, if in a homicide investigation, we ask the subject when was the last time that they saw or talked to John (the victim) and the subject responds that he has not seen or talked to him for several weeks, and yet we have a security video showing him entering the victim's apartment with John earlier on the day of the murder, the fact that he lied about that is extremely significant.

During this segment of the interview, (the investigative questions) the investigator would explore for any precipitators that may have provoked the incident or any procedural or policy violations that may have contributed to the situation. The investigator should attempt to resolve any inconsistencies or contradictions that may have surfaced from other subjects' interviews or the investigative information. If the subject offers an alibi for the time in question, every effort should be made to investigate the alibi. The investigative questions constitute most of the interview.

In our book, *Criminal Interrogation and Confessions*, 5th edition 2013, we devote several chapters to the topic of Investigative Questions (Open-ended questions, Direct questions, Follow-up questions, Probing questions, etc.)

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 tend to answer one way, while deceptive individuals oftentimes tend to answer in a completely different manner. Here is an example of a behavior-provoking question, which is referred to as the punishment question - "Jim, what do you think should happen to the person who did this (issue)?" The principle of response is that most truthful subjects usually offer appropriately strong punishment. For example, in a homicide investigation, the truthful person may say, "He should spend the rest of his life in jail." Whereas, the deceptive individual, who is thinking about himself, may say something like "That's hard to say... I guess it depends on the circumstances."

In *Criminal Interrogation and Confessions*, we discuss numerous behavior-provoking questions that can be asked during the interview.

John E. Reid and Associates was awarded two federal grants from the National Security Agency (NSA) to specifically investigate behavioral differences between truthful and deceptive suspects. In those two studies, a total of 80 videotaped interviews of actual, real-life suspects were prepared under different conditions; this permitted trained evaluators to evaluate the subject's verbal, paralinguistic, and nonverbal behaviors separately and together.

When evaluators were able to see and hear all three channels of communication together, their average accuracy, excluding inconclusive opinions, was 86% for truthful suspects and 83% for deceptive subjects.

It should be pointed out that this finding was based solely on the evaluation of 15 behavior-provoking questions and answers asked during each interview and that the evaluators did not see or hear any of the investigative questions and answers and were not provided with any case information or background about the subjects.

Differentiation of Truthful and Deceptive Criminal Suspects in Behavior Analysis Interviews. *Journal of Forensic Sciences*, 39(3), 793–806).

At the conclusion of the non-accusatory investigative interview (BAI), the investigator will evaluate the investigative and behavioral information developed during the interview, as well as the information, facts and evidence developed during the investigation up to this point, and then make one of several possible decisions:

- the investigator may eliminate the subject from further investigation
- the investigator may determine that the investigation of the subject should continue, or
- the investigator may decide to initiate the interrogation of the subject

So the Behavior Analysis Interview is much more than Leo's description that "...the investigator asks 15 or 20 hypothetical questions and evaluates whether the subject is telling the truth or lying based on their answers and body language, and that can become the basis for interrogating somebody"

For more information on the Investigative Interview process review the following video presentations on our YouTube channel – **The Reid Technique Tips:**

Preparing for the Interview
Proper Room Setting
Using Open-ended Questions Parts One and Two
There is no behavior unique to lying
The Value of Behavior-Provoking Questions

So now that you have a more complete, detailed, and accurate description of the Behavior Analysis Interview than offered by Leo, let's look at the "substantial empirical research" that Leo says discredits the BAI.

When Leo and others state that there is “substantial empirical research that the Reid method can become psychologically coercive” and that “there is a consensus in the scientific community that the techniques taught by the Reid method sometimes lead to or are involved in false confession cases” and that “it’s part of the generally accepted knowledge that the Reid method trains police in techniques that are associated with and believed to sometimes cause false confessions.....” they are referring to one singular factor – the concept of “misclassification.”

“Misclassification” is a term used by social psychologists to reference when an investigator erroneously identifies an innocent person as the guilty suspect based on their verbal and nonverbal behaviors during the investigative interview. And social psychologists reach this conclusion based on the fact that almost all of the research studies regarding an investigator’s ability to accurately assess a subject’s credibility indicate that investigators cannot identify whether a person is telling the truth or is being deceptive at a level better than chance.

Consequently, according to this research, Leo is suggesting that the result of this credibility assessment “error” is that the investigator is oftentimes interrogating an innocent person, which can lead to securing a false confession.

Essentially Leo is saying that when Reid teaches investigators to observe a subject’s verbal and nonverbal behaviors during the interview, they are teaching them a process that will lead to the misclassification of a subject’s truthfulness resulting in the interrogation of innocent individuals.

We certainly acknowledge that the vast majority of academic research studies, which are typically laboratory creations, yield very poor results as to the investigator’s ability to determine whether the subject is truthful or deceptive. Oftentimes these studies involve a group of students, some of whom are asked to play the role of an innocent person and the other half to assume the role of a deceptive person.

For example, half of the students are instructed to “steal” money from the professor’s desk and then lie about it when they are questioned. The focus of the study is “Can the interviewer identify their deception?”

These are the type of “research studies” that yield such poor results in the “investigators” ability to accurately identify truthful and deceptive individuals.

As you can surmise, the primary reason for the poor results of these types of research studies is that the vast majority of them do not mirror the context and structure of real-life interviews that are conducted by investigators in the field. Here are just a few of the problems with the studies that social psychologists use as the basis for their conclusions:

- The subjects (oftentimes college students) had very low levels of motivation to be believed (in the case of “innocent” suspects) or to avoid detection (in the case of “guilty” suspects). In real-life interviews, the consequences of not being believed or being detected as guilty can obviously be very significant.

- There was no attempt to establish a behavioral baseline for each subject so as to identify any changes from their norm when they answered questions about the issue under investigation.
- The research was based on the faulty premise that there are specific behavior symptoms that are unique to truth or deception- There are no behaviors that are unique to truthfulness or deception
- There was no consideration or allowance for the various factors that can affect and influence a subject's behavior, such as the seriousness of the issue; the subject's level of social responsibility; the subject's mental capacity; their emotional and psychological well-being; their maturity; cultural influences and their physical condition at the time of the interview

So, it is not surprising at all that these “studies” yielded such poor results.

Another study example is one in which a group of inmates were individually shown on screen twice telling their story about the 2 crimes that they committed. One story was true and the other story was false. After viewing the 2 videos for each inmate the reviewer is asked to determine which was the true crime story and which was the false statement..... the results found that the evaluators were generally very poor in their ability to discern which was the true story and which was the false story.

In the real world, the investigator would have engaged in conversation with the subject at the outset of the interview to develop some background information about the individual and to develop a behavioral baseline. After listening to the subject's story, the investigator would ask the subject questions to clarify ambiguous statements, develop additional details, clarify inconsistencies, etc. In this “real world” process undoubtedly the reviewer's accuracy in identifying the true story would have significantly improved.

To give you an example of how these social psychologists, defense lawyers, and academicians lack an understanding of the behavioral assessment process, consider the following..... At a recent conference for defense attorneys, one of the speakers, a lawyer, was describing some of the behaviors that she said John E. Reid and Associates teaches as being suggestive of a deceptive person. One of the behaviors she said that Reid views as deceptive is the response, “I don't know.”

What the attorney failed to say (or perhaps, even to consider) was that all behaviors must be viewed in context. For example, if I asked you what did you do 7 weeks ago on Thursday night between 6:00 pm and midnight, it would be completely reasonable for you to say, “I don't know.”

However, if I asked you if they had anything to do with killing your next-door neighbor last night, and you responded, “I don't know,” a very different assessment would be made.

There are additional significantly important distinctions between these laboratory studies and real-life investigations.

- In these laboratory research studies the interviews of the subjects were not conducted by investigators trained in interviewing techniques.
- The studies did not employ the type of structured interview process that is commonly utilized by investigators in the field.
- In these “research” efforts there was little consideration given to evaluating the subject’s potential “involvement” in the context of the investigation details based on the case facts and evidence. For example, in the mock crime case of stealing money from the professor’s office, was the subject seen going into the professor’s office at any time on the day of the theft, or was he/she off-campus attending a specialized class at a sister college and had a verifiable alibi?

In summary, these types of research studies actually have almost nothing in common with a real-life investigative interview or a real-life assessment of a subject’s credibility. Accuracy in detecting deception with real-life suspects is significantly higher than the accuracy rate suggested by studies that use as subjects students in a mock crime scenario.

Researchers are realizing the deficiencies in these created research studies and are acknowledging the vital role of the investigator in using effective interviewing techniques. In the article, “Eliciting cues to deception and truth: What matters are the questions asked” *Journal of Applied Research in Memory and Cognition* (2012) Aldert Vrij and Par Anders Granhag, the authors point out that “cues to deceit are faint and unreliable implies that the only way to improve lie detection is by eliciting and enhancing such cues. We argue that the interviewers can achieve this by using appropriate, theoretically sound interview techniques...”

Research efforts that have more closely attempted to mirror real-life interview circumstances have demonstrated a significant increase in an investigator’s ability to evaluate accurately a subject’s behavior symptoms. When an investigator understands the context in which an interview is taking place (for example, the case facts and background information), accuracy in assessing a subject’s behavior symptoms greatly increases.

A study published in *Human Communication Research* by researchers at Korea University, Michigan State University, and Texas State University -- San Marcos found that using active questioning techniques by trained investigators of individuals suspected of wrongdoing yielded 97.8% accuracy in detecting deception.

“Expertise in Deception Detection Involves Actively Prompting Diagnostic Information Rather Than Passive Behavioral Observation” *Human Communication Research* (40) 2014 Timothy Levine, David Clare, J. Pete Blair, Steve McCornack, Kelly Morrison and Hee Sun Park

Within the scope of detecting deception, there are two broad inferences that are made through behavioral observations. The first involves inferences of guilt or innocence, that is, “Did this

person engage in a particular criminal act?” The second involves inferences of truth or deception, that is, “When this person says such and such, is he telling the truth?”

Consider the following exchange during an interview in an arson investigation:

Q: “Have you ever thought about setting fire to your house for the insurance money?”

A: “Well sure. I think everyone has thoughts like that.”

This suspect’s verbal response to the investigator’s question is probably 100% truthful. Yet, the content of the response infers potential guilt with respect to setting fire to his house. Research in the field of behavior symptom analysis generally indicates higher accuracies in identifying guilt or innocence, than truth and deception.

We practice and teach that when evaluating a suspect’s behavior in an effort to assess their credibility, there are several essential principles that must be followed in order to increase the probability that subsequent inferences will be accurate. Failure to recognize any of these principles increases the probability of making erroneous inferences from a suspect’s behavior.

None of these principles were followed in the majority of the research studies which serve as the basis for the “substantial empirical research” that Leo and others reference.

Principle of Behavior Analysis

Establish the subject’s normal behavioral patterns

There are no unique behaviors associated with truthfulness or deception

Evaluate the consistency between all three channels of communication – verbal, paralinguistic and nonverbal

Evaluate the preponderance of behaviors occurring throughout the interview

Evaluate the potential influence of various factors -the seriousness of the issue; the subject’s level of social responsibility; the subject’s mental capacity; their emotional and psychological well-being; their maturity; cultural influences and their physical condition.

It is interesting to note that in the federal court decision *United States v. Begay* (497 F.Supp.3d 1025, 1068-69 (D. N. Mex 2020) the court found “there is no scientifically reliable means of determining whether a given confession is false.” The court also stated that “crucially, there does not appear to be a reliable estimate of how many confessions are false confessions, regardless of the interrogation tactic employed.” Additionally, the court found that a further limitation on false confession science “is that false confession theory does not appear to be based on significant empirical data,” and “instead appears to be based primarily on anecdotal evidence, small-sample-size studies, or extrapolations from inapposite situations.”

In view of this discussion, social psychologists, defense attorneys and academicians who suggest that “there is a consensus in the scientific community that the techniques taught by the Reid method sometimes lead to or are involved in false confession cases”..... are clearly being disingenuous in their statements.

To underscore their hypocrisy, consider the fact that while on the one hand, Leo (and others) suggest that “the Reid method sometimes lead to or are involved in false confession cases, and that some of those techniques are risk factors for a false confession” while on the other hand he has testified as a false confession expert in a number of cases in which he stated that the police acted improperly, that they violated national standards and specifically, that they engaged in coercive behaviors that resulted in a false confession, and to bolster his position, he oftentimes refers to John E. Reid and Associates as setting the national standards for proper interrogation techniques.

Leo has testified that “the Reid & Associates manual is sort of the bible of interrogation in America. It was then, and it is now.” When he was asked, “What actions did the officers in this case take that you are opining violated national police interrogation standards?”, he responded, “one would be the use of promises or threats” which Reid has advised investigators not to do for over 60 years.

Leo also testified that “ the Reid and Associates training manuals and programs have always from the 1st edition in 1942 to the current edition in 2022, repeatedly implores police investigators not to use any interrogation technique that is “apt to make an innocent person confess.”

Given the fact that Leo and others use Reid and Associates as the standard for proper procedures, it is clearly disingenuous to suggest that we engage in and teach behaviors that cause false confessions.

In the case *U.S. v. Jacques*: (United States v. Jacques, 784 F. Supp. 2d 48) the court stated that ...”the proffered expert testimony to the effect that the Reid technique enhanced the risk of an unreliable confession lacked any objective basis for support whatever. Although Professor Hirsch (the false confession expert in this case) insisted that “there is a wealth of information about the risks of the Reid technique,” he could point to none.”

For additional information on this topic visit our Investigator Tips at www.reid.com

A General Outline of Richard Leo's Testimony on False Confession Issues and Reid Responses

What False Confession Experts Say About the Reid Technique and Our Responses