

The following are excerpts from the testimony of Dr. Richard Leo in his deposition taken on April 23, 2013 in the case *Caine v. Burge*, followed by Reid's comments:

**Dr. Leo:**

*"Interrogations are not about clearing innocent suspects. Not in America. Interrogations are based on a presumption of guilt. They're about building cases. They're not about clearing innocent suspects..... So, no, the idea that the goal of an interrogation, as opposed to, say, an interview, is to clear a suspect of a crime is absurd..... Now, a more interview-based approach that doesn't presume they know the right answer and isn't oriented toward getting the suspect to give them what they believe occurred would be better suited for doing what you're saying."* Pages 204-205

**Reid:**

In the Reid Technique the process always starts with a non-accusatory interview in which the investigator is a neutral and objective fact finder. It is only when the available investigative information, as well as any relevant information developed during the interview, indicate the subject's probable involvement in the commission of the crime that an accusatory interrogation would take place.

The purpose of an interrogation is to learn the truth. A successful interrogation has four possible outcomes: the subject is identified as the person who committed the crime; the subject is identified as innocent; the subject is innocent but has guilty knowledge as to who committed the crime; or, it is learned that the subject lied about some significant part of his story (such as alibi or relationship with the victim) but is probably innocent of committing the crime.

See *Criminal Interrogation and Confessions*, 5<sup>th</sup> edition, 2013.

One final point to consider is that in his testimony Dr. Leo ignores the fact that even though the interrogation starts because the investigator believes, based on the available investigative evidence, that the suspect did commit the crime in question, the investigator's opinion of a suspect's status can change. In our books and training manuals we have always presented various scenarios that could result in an investigator changing his opinion concerning the guilt of a suspect as a result of information learned or behaviors expressed during the interrogation. (See below) In short, starting an interrogation with a presumption of or belief in the suspect's guilt does not equal a goal that an interrogation is conducted to elicit a confession at any cost, whether it is true or not.

**Dr. Leo:**

*"And then they [Reid] lay out techniques that are not about getting the truth; they're about getting a confession. The techniques they lay out don't say, 'Now stop and evaluate whether the person is telling the truth or whether the person is lying.' The manual basically says they're lying, and you've got to get them to stop lying."* Pages 209-

**Reid:**

In our interrogation training materials and books we spend a considerable amount of time describing what to look for as a possible indication of innocence during the interrogation process. For example, in the 3<sup>rd</sup> edition of *Criminal Interrogation and Confessions* published 27 years ago (1986), we state the following with respect to recognizing an innocent suspect's denials:

" An innocent suspect, as a rule, will respond to the interrogator's first accusation (*Step 1*) with a spontaneous, direct and forceful denial of guilt. He will likely express or otherwise indicate anger and hostility over the accusation and may even insult the interrogator because of it. While making the initial denial, the innocent suspect will look the interrogator "straight in the eye" and may very well lean forward in the chair in a very rigid or aggressive posture. The verbal content of the innocent suspect's denial may be something like: "You're wrong. You've got to be crazy if you think I did something like that.!" page 143

"Innocent suspects disclose very little warning during the theme development stage that they are about to verbally deny involvement in the crime. They may give some general nonverbal signs that they are about to speak, such as shaking the head or leaning forward while making some hand gesture or arm movement, but they will usually give no verbal clues that a denial is forthcoming. Instead, they simply voice the statement, "I didn't do it," without any prefatory remark." page 144

"In the majority of instances, innocent suspects will not allow the interrogator to stop their denials; in fact, the intensity and frequency of denials from the innocent will increase as the interrogation continues. An innocent suspect will become angry and unyielding and often will attempt to take control of the interrogation by not allowing the interrogator to talk until the suspect has made very clear the point that he did not commit the crime under investigation." page 148

"Innocent suspects often emphasize their denials by distinctly enunciating their words....." page 148

"An innocent person will remain steadfast in denying guilt, regardless of the attitude or statements of the interrogator." page 149

"When the interrogator senses that the suspect may be innocent, he should begin to diminish the tone and nature of the accusatory statements." page 149

"Whenever the verbal and nonverbal behavior exhibited by the suspect during an interrogation seems sincere and indicates that the suspect was not involved in the offense under investigation, no statement should be made immediately that he is clear of any subsequent investigation. The suspect should merely be told that as a result of

cooperating with the investigator, other leads will be pursued in an attempt to substantiate the suspect's claim of innocence." page 150

**Dr. Leo:**

In response to the question, "Are you aware that what they [Reid] actually say is that the objective of an interrogation is to elicit the truth from a subject, not a confession?" Dr. Leo testified that, "*They [Reid] started to say that after the 1997 articles that Richard Ofshe and I wrote.*"

**Reid:**

In the 2<sup>nd</sup> edition of *Criminal Interrogation and Confessions*, published 46 years ago (1967), the authors expressed concern for the possibility of false confessions, particularly from individuals with mental illnesses. "One method for checking the authenticity of a conscience-stricken confession, or one that appears to be the result of mental illness, is to refer to some fictitious aspects of the crime and test whether the subject will accept them as actual facts relating to the occurrence." Page 116

Also in the second edition the authors caution the investigator not to reveal all of the details of the crime to the suspect, because, "On those rare occasions when the subject may be a pathological liar, or when the interrogator may have some concern over that possibility, it is extremely helpful to be able to check what the subject says against known fact which had not been disclosed to him and which he could know about only by reason of his having actually committed the crime." Page 32

In our 3<sup>rd</sup> edition of *Criminal Interrogation and Confessions*, in 1986, we clearly state that one of the investigators obligations is to identify innocent persons during the interrogation process.

"Professionalizing the interrogation function within a police department would have three benefits: 1) there would be a considerable increase in the rate of confessions from criminal offenders; 2) the confessions will be more likely to meet the prescribed legal requirements; and 3) there would be the expeditious and dependable elimination from suspicion of persons innocent of the crimes for which they have been incarcerated or subjected to questioning on a theory of their involvement in the offense." page 36

We significantly expanded our discussion of these issues in the 4<sup>th</sup> (2001) and 5<sup>th</sup> (2013) editions of our book.

**Dr. Leo:**

*"But I think, for most police, and pursuant to police training, including the Reid method, a successful interrogation is where you get an incriminating statement. Even if that statement is not truthful, if it is incriminating, then it's successful, period."* Page 215

As pointed out previously in this document, a successful interrogation has four possible outcomes: the subject is identified as the person who committed the crime; the subject is identified as innocent; the subject is innocent but has guilty knowledge as to who committed the crime; or, it is learned that the subject lied about some significant part of his story (such as alibi or relationship with the victim) but is probably innocent of committing the crime.

In all of our publications and training programs we teach that the investigator should avoid those behaviors that the courts have deemed unacceptable, and that we know contribute to the risk of a false confession. Specifically,

- 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 he can reveal information that only the guilty would know
- Exercise special cautions when questioning juveniles or individuals with mental or psychological impairments
- 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 have published extensively in our books and on our website information about what causes false confessions; what interrogators should and should not do; and, how to identify false confessions.

For example, see Chapter 15, “Distinguishing Between True and False Confessions” in the 5<sup>th</sup> edition of *Criminal Interrogation and Confessions*.

**Dr. Leo:**

*“In the third edition of their current manual in 1986, they have an appendix, and in that appendix they say how you get a suspect to confess is you raise their anxiety level and then you decrease their perception of the consequences.... To some extent, they're saying -- they're saying something very similar to what we're saying here. If somebody's anxiety level is raised to a very high level, as they, themselves, say is the goal of their method in that appendix -- or at least part of the goal -- if you raise somebody's anxiety level high enough, it could make them feel hopeless.....”* Page 218

**Reid:**

It should be noted that we never state in the Appendix that Dr. Leo is referring to (or in any of our books or training materials), that the Reid Technique is designed to cause a suspect to experience a feeling of helplessness or being in a hopeless situation. In fact, Dr. Leo takes great liberty by re-defining how we used the concept of “anxiety” in our discussion. Dr. Leo’s description of enhancing the suspect’s anxiety infers threats of physical harm, deprivation of biological needs, keeping the suspect incommunicado, and threats of inevitable consequences, e.g., making the suspect believe he is in a helpless position. To the contrary, on page 329 we carefully define our use of the term anxiety, and, in fact, recognizing the importance of properly understanding how we are using the term anxiety in developing the interrogation model, we offered two further reminders on pages 332 and 344 of how the term anxiety was being used. Unfortunately, Dr. Leo chose to ignore the information that we provided.