

Someone Gave Ms. Mohr Some Bad Information

In a recent article in FRAUD magazine, published by the Association of Certified Fraud Examiners, entitled, “When subjects admit guilt but they’re innocent” the author, Ms. Beth Mohr, made a number of inaccurate statements about the Reid Technique. In the text below I have italicized several of those comments followed by the correct information.

- *“The Reid Technique and others like it are based on a step-by-step process that focuses on presumption of guilt and eliciting confessions.”*

The Reid Technique always begins with a non-accusatory, non-confrontational investigative interview in which the investigator is a neutral, objective, non-judgmental fact finder.

The interview consists of investigative questions which deal with the issue that is under investigation. One of the first things the investigator should do is ask the subject 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 under investigation.

Interrogation only becomes appropriate when the information developed during the investigation indicates the subject's probable involvement in the commission of the issue under investigation.

On our YouTube channel – The Reid Technique Tips - we have numerous video presentations that detail this process.

- *The technique’s creators believe that nobody would falsely confess to a crime they didn’t commit, so any amount of psychological pressure is justifiable in obtaining a confession.*

To the contrary, we understand the fact that false confessions can occur. In fact, over the years John E. Reid and Associates has assisted the Innocence Project (New York) on several cases as expert witnesses on proper interview and interrogation techniques, as well as the exoneration of one of their clients by obtaining a confession from the actual offender. This case was detailed in the story, “I Did It” in New York magazine (<http://www.reid.com/pdfs/idadit.pdf>). We have also assisted other attorneys (for example, Kathleen Zellner) in wrongful conviction cases.

We teach in our courses and have published in our books extensively about false confessions – here are two articles from our website:

False Confessions: The Issues to be Considered
(<https://reid.com/resources/whats-new/2021-false-confessions-causes-and-remedies>)

What Questions Should be Asked to Determine the Voluntariness and Validity of a Subject’s Confession?

(<https://reid.com/resources/investigator-tips/what-questions-should-be-asked-to-determine-the-voluntariness-and-validity-of-a-subject-s-confession>)

The core principles of the Reid Technique are:

- 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

Here are several of the Best Practices that we espouse:

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.

A single investigator should be the lead communicator. While it is often appropriate to have a third person in the room during an interrogation, perhaps as an observer or witness, there should only be one primary investigator communicating with the suspect at a time. A guilty suspect is more likely to offer a voluntary confession to a single investigator who has established a rapport

and trust with the suspect. A tactic to be avoided is to have two or three investigators simultaneously bombarding the suspect with themes or alternative questions, or working as a "tag team" wearing the suspect down over an extended period of time.

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 of 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 passcode 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!"

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.

If these best practices are followed there is an extremely high probability that a confession will be a true statement of guilt.

The purpose of an interrogation is to learn the truth. In most instances, this consists of the guilty suspect telling the investigator what he did regarding the commission of the crime under investigation. The obvious reason for this outcome is that interrogation should only occur when the investigative information indicates the suspect's probable involvement in the commission of the crime.

However, there can be several other successful outcomes:

- the subject discloses to the investigator that he did not commit the crime but that he knows (and has been concealing) who did
 - the suspect may reveal that while he did not commit the crime he was lying about some important element of the investigation (such as his alibi – not wanting to acknowledge where he really was at the time of the crime), or
 - the investigator determines the suspect to be innocent
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- *According to the Reid Technique materials, the process begins with isolating and secluding the subject, followed by an investigator's friendly rapport building that suddenly ends with the investigator saying they're absolutely certain of the subject's guilt.*

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 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. In fact, 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: "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-distracted if questioning is to be made productive." *Culombe v. Connecticut* (1961) 367 U.S. 568, 579

- *Investigators present to subjects fabricated physical evidence and fictitious statements from supposed co-conspirators, and then lie to subjects about the investigators' knowledge of the facts of the case and subjects' guilt.*

With respect to misrepresenting evidence, in 1969 the United States Supreme Court ruled in *Frazier v. Cupp* that misrepresenting evidence to a suspect (in this case falsely telling the suspect that his accomplice had confessed) "is, while relevant, insufficient in our view to make this otherwise voluntary confession inadmissible. These cases must be decided by viewing the "totality of circumstances..."

We teach the following guidelines regarding this issue:

Introducing fictitious evidence during an interrogation presents a risk that the guilty suspect may detect the investigator's bluff, resulting in a significant loss of credibility and sincerity. For this reason, we recommend that this tactic be used as a last resort effort.

This tactic should not be used for the suspect who acknowledges that he may have committed the crime even though he has no specific recollections of doing so. Under this circumstance, the introduction of such evidence may lead to claims that the investigator was attempting to convince the suspect that he, in fact, did commit the crime.

This technique should be avoided when interrogating a youthful suspect with low social maturity or a suspect with diminished mental capacity. These suspects may not have the fortitude or confidence to challenge such evidence and, depending on the nature of the crime, may become confused as to their own possible involvement if the police tell them evidence clearly indicates they committed the crime.

We never teach to fabricate evidence.

- *Interrogators and interviewers are generally no better at detecting lies than pure chance; they're correct about 50% of the time. Academic studies have also demonstrated that the Behavioral Analysis Interview method, a mainstay of the Reid Technique — in which*

investigators determine that subjects are lying and thus guilty — isn't scientifically valid

Most of the detection of deception research studies that are referenced involved studies that were conducted in the laboratory using students to commit mock crimes. There are a number of reasons that laboratory studies are generally not applicable to real-life situations:

- The subjects (students) had low levels of motivation to be believed (in the case of innocent subjects) or to avoid detection (in the case of guilty subjects)
- The interviews of the subjects were not conducted by investigators trained in interviewing criminal suspects
- 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 behavioral baselines for each subject so as to identify unique behaviors within a particular individual
- The research was based on the faulty premise that there are specific behavior symptoms that are unique to truth or deception
- There was little consideration given to evaluating behaviors in context. For example, identifying whether specific nonverbal behaviors are appropriate given the verbal content of the suspect's response, identifying the consistency of a suspect's statements across time and with known evidence, and so on.

When researchers attempt to design studies that more closely approximate the setting of real-life field interviews, they show a marked increase in the ability of researchers to detect deception. Consider the following:

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 of individuals yielded near-perfect results, 97.8%, in detecting deception.

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

An expert using the Reid Technique interrogated participants in the first study – this expert was 100% accurate (33 of 33) in determining who had cheated and who had not. The second group of participants were then interviewed by five US federal agents with substantial polygraph and interrogation expertise. Using a more flexible and free approach (interviews lasted from three minutes to 17 minutes), these experts were able to accurately detect whether or not a participant cheated in 87 of 89 interviews (97.8%). In the third study, non-experts were shown taped interrogations of the experts from the previous two experiments. These non-experts were able to determine deception at a greater-than-chance rate -- 79.1% (experiment 1), and 93.6% (experiment 2).

"This research suggests that effective questioning is critical to deception detection," Levine said. "Asking bad questions can actually make people worse than chance at lie detection, and you can

make honest people appear guilty. But fairly minor changes in the questions can really improve accuracy, even in brief interviews. This has huge implications for intelligence and law enforcement.”

- *To be clear, the Reid Technique, and similar high-pressure police interrogation techniques are extremely effective at generating confessions. However, the courts might rule that investigators coerced confessions and therefore rule them inadmissible.*

Here is what the courts say about the Reid Technique:

In *People v. Elias* (2015 WL 3561620) the Appeals Court pointed out several prescribed Reid procedures that were not followed by the investigator, resulting in a confession that was found to be involuntary:

1. A non-accusatory interview was not conducted before initiating an interrogation
2. The investigator misrepresented the case evidence when questioning a 13-year-old
3. There was no corroboration of the incriminating statement
4. There was contamination - disclosing details of the crime

In *US v. Preston* (F.3d ----, 2014 WL 1876269 (C.A.9 (Ariz.) the US Court of Appeals reviewed the confession of an eighteen-year-old with an IQ of sixty-five. The court pointed out that the investigators did not follow the cautions Reid suggests when interviewing individuals with mental limitations.

From *U.S. v. Jacques*: (United States v. Jacques, 784 F. Supp. 2d 48 (2011)

“In his declaration and at the hearing, Professor Hirsch explained that the primary cause of “coerced compliant” confessions are certain interrogation methods employed by law enforcement, including a widely used method known as the Reid technique....Beyond his own intuition, however, Professor Hirsch offered no basis for concluding that these tactics had any tendency necessarily to cause false, rather than true, confessions.

In sum, the proffered expert testimony to the effect that the Reid technique enhanced the risk of an unreliable confession lacked any objective basis for support.... Although Professor Hirsch insisted that “there is a wealth of information about the risks of the Reid technique,” he could point to none.”

In *State v. Belaunde* (December 2019) the Superior Court of New Jersey, stated in their opinion that “No case supports the contention that using the Reid technique renders an adult’s confession inadmissible.”

In July 2014, at the National Association of Criminal Defense Attorneys conference, the attorneys were encouraged to use the information on our website (www.reid.com) and our book, *Criminal Interrogation and Confessions*, as a reference for proper police practices. During the presentation, Attorney Nirider told the audience that “There’s a lot of gold in the Reid interrogation manual and on reid.com and we really.... encourage you guys to go there and cite that material.”

Social psychologists oftentimes try to suggest that the Reid Technique causes false confessions, but such statements are clearly not supported by the evidence. False confessions are not caused by the application of the Reid Technique, they are usually caused by interrogators engaging in behavior 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 excessively long interrogation; denying the suspect an opportunity to satisfy their physical needs, etc.

In one study the author examined 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...”** 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, “A Test of the Unusual False Confession Perspective: Using Cases of Proven False Confessions” *Criminal Law Bulletin* (Vol 41, Number 2)

- *In 2017, Wicklander-Zulawski and Associates, which calls itself the leading training company in the world on interrogation techniques, stated that it would no longer teach the Reid Technique because of the risk of false confessions.*

NOT EXACTLY! See the following article we published in 2019 on our website

Don't Be Fooled - They use the core elements of the Reid Technique

The Reid Technique is the foundation for many training programs on effective interviewing and interrogation techniques. Regardless of what some may claim, an independent audit of their course content will confirm the use the core elements of the Reid Technique. We will provide you with an illustration in this article.

The Reid Technique is oftentimes just thought of and is frequently referred to as simply an interrogation process or a confrontational process - it is much more than that. The Reid Technique is a structured interview and interrogation process that involves three primary stages: Fact Analysis, the Investigative Interview, and, when appropriate, Interrogation.

Fact Analysis - Factual analysis consists of reviewing the case facts and evidence in an effort to identify the potential scope of suspects, the probability of the offender's characteristics, and what their possible motive may have been.

The Behavior Analysis Interview- At the outset of the investigative 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; investigative questions that are relevant to the specific issue/crime at hand; and, behavior-provoking questions.

The Reid Nine Steps of Interrogation - The interrogation process in The Reid Technique is known as the Nine Steps of Interrogation. This process should only occur when the investigative information indicates the subject's probable involvement in the commission of the crime. These steps are:

- The initial confrontation
- Theme development
- Handling denials
- Overcoming objections
- Procurement of the subject's attention
- Handling the subject's passive mood
- Presenting an alternative question
- Developing the details of the admission
- Converting the verbal confession to a written or recorded document

The purpose of the interrogation is to learn the truth. There are several possible outcomes to a successful interrogation: the subject may be identified as innocent; it may be determined that the subject did not commit the offense under investigation but lied about some aspect of the investigation (motive, alibi, access, relationship with the victim, etc.); the investigator may determine that the subject did not commit the offense under investigation but knows who did; or, the subject may be identified as guilty.

The core of the interrogation process in the Reid Technique is to use empathy, sound reasoning and logic to elicit the truth – this is called theme development. It is important during the development of the theme that the investigator avoid any indication that the minimization of the moral or psychological blame will relieve the suspect of criminal responsibility.

The Comparison

In many interview and interrogation training programs the instructors include to one degree or another, the three stages referenced above, but covertly attempt to often disguise them so as to hide the Reid origin. For example, one firm has publicly stated that they do not teach the Reid Technique, but when you review the published content for a training program that they are offering in September 2019, the similarity is striking:

Behavioral Analysis Interview (BAI)

Nine Steps of Criminal Interrogation

Non-Confrontational Method

Theme Development/Rationalization

Handling Denials

Enticement Questions

Submission

Obtaining the Admission & Using Assumptive Questions

Development of the Admission into a Legally-Acceptable Confession

Elements of Written & Formal Statements

The Law as it Relates to Interview & Interrogation

Consider Step One – The Confrontation. Reid and Associates offers 5 ways to initiate the interrogation:

- *As a result of the investigation that we have conducted, and considering the information you gave me during our interview, the investigation indicates that there are some areas that we need to clarify.*
- *The results of our investigation indicate that you have not told me the complete truth about (issue).*
- *As you know, we have interviewed everyone in the area and you are the only one that we cannot eliminate from suspicion.*
- *I have in this file the results of our investigation into the (issue). The results of this investigation clearly indicate that you are the person who (committed the offense).*
- *The Non-Confrontational Approach. This interrogation process begins **without making any statement about the subject's involvement**, but simply beginning with what we call a "third person theme."*

A third person theme is a real or fictitious event about the investigator, friend or past case depicting a similar type of offense to that of the suspect's and the emotional state or extenuating circumstances that led to the act. One of the benefits of using a third person theme is that it does not encourage denials because it is not specifically directed at the subject's behavior. In our training programs we discuss what criteria to consider in determining the appropriate initial statement to use.

Other training firms only offer the Non-Confrontational approach to Step One, but the remainder of the interrogation mirrors the Reid Technique as illustrated above.

Our goal is to provide the most current, up to date and best training available for the development of the specialized skills to conduct interviews and interrogations. As a result of our success in helping investigators secure these skills, our material is regularly “used” by others, albeit in a disguised manner. Don’t be fooled by imitators.

Amendment: After posting this entry on the What’s New page on our website, we were advised by the referenced company that the program content that we listed for one of their upcoming training programs (September 2019) was from “an old marketing flyer that was still being used” by the agency training department which is hosting the September program, “which in no way reflects our current course materials.”

A review of their training program, Criminal Interview and Interrogation, on their website (as of August 14, 2019) includes in the description of their current course content, which, among other topics, includes the following:

Interpretation of Verbal and Physical Behavior

...Non-Confrontational Method

Rationalizations

Handling Denials

Enticement Questions

Development & Substantiation of the Confessions

Elements of the Written and Formal Statements

In conclusion, when authors write about the Reid Technique they oftentimes “rehash” inaccurate information that they picked up from other publications, and never conduct any independent research. On our YouTube channel, we have over 30 video presentations on various aspects of our interview and interrogation procedures, and on our website under the resource heading, Investigator Tips, we have numerous articles that clearly detail and address many of the issues outlined above. If our Best Practices and Core Principles are followed, the Reid Technique is the most effective and impartial process for conducting investigative interviews, and when appropriate, interrogations.