

The Reid Technique: A Position Paper

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Core Principles

- Always conduct interviews and interrogations in accordance with the guidelines established by the courts
- Do not make any promises of leniency
- Do not threaten the subject with any physical harm or inevitable consequences
- Do not deny the subject any of their rights
- Do not deny the subject the opportunity to satisfy their physical needs
- Always treat the subject with dignity and respect
- Do not conduct excessively long interrogations
- Exercise caution when interrogating juveniles, suspects with a lower intelligence or suspects with mental impairments

Best Practices

- Conduct a non-accusatory interview before any interrogation
- Conduct an interrogation only when there is a reasonable belief that the suspect is guilty or is withholding relevant information
- Consider a subject's behavior in conjunction with the case facts and evidence
- Attempt to verify the suspect's alibi before conducting an interrogation
- A single investigator should be the lead communicator
- When interrogating a non-custodial suspect, do not deprive the suspect of their freedom to leave the room
- Do not conduct excessively long interrogations
- Exercise extreme caution when interrogating juveniles, suspects with a lower mental capacity or individuals with mental or psychological impairments
- When using interrogation techniques involving deception the investigator should not manufacture evidence against the suspect
- 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

- Do not reveal to the suspect all of the information known about the crime
- Attempt to solicit information from the suspect about the crime that was unknown to the investigator
- The confession is not the end of the investigation

Criticisms of the Reid Technique

- The criticisms offered by false confession critics will be in **bold type** followed by our response
- **It's too effective**
 - Dr. Saul Kassin – The Reid Technique is a perfect system to get confessions from the guilty
 - Dr. Deborah Davis – referred to the Reid Technique as a brilliant use of the psychology of influence
 - Dr. Alan Hirsch – I want to be very clear that, number one, the Reid Technique is too effective. The problem is not that it's ineffective. It breaks down guilty suspects.”
- **Misrepresenting evidence causes false confessions**
 - In *Frazier v. Cupp* the US Supreme Court said that investigators can misrepresent evidence to the suspect (in this case the subject was falsely told that his accomplice had confessed)
 - The Court stated that the “totality of circumstances” must be considered in determining voluntariness
 - We teach not to misrepresent evidence to the subject during the non-accusatory interview
 - We teach not to misrepresent evidence to a youthful suspect with low social maturity or a suspect with diminished mental capacity
 - We recommend that this tactic generally be used as a last resort effort
 - Misrepresenting evidence by itself does not cause false confessions.
 - Misrepresenting evidence **and** engaging in coercive tactics can cause a false confession
 - In *US v. Graham* the court examined a number of cases and found that misrepresenting evidence did not cause false confessions but that the “significant aggravating circumstances” that were utilized did; 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.”
- **The purpose of an interrogation is to get a confession**
 - The purpose of an interrogation is to learn the truth
 - Successful outcomes from an interrogation include:
 - Identifying the suspect as innocent
 - Obtaining a confession from the guilty party
 - Learning that the suspect has been concealing guilty knowledge as to who did commit the crime
 - Learning that the suspect lied about some aspect of the investigation (alibi, relationship to the victim, access, etc.)

- **The Reid Technique starts with the presumption of guilt**
- The Reid Technique always begins with a non-accusatory interview
- The investigator should be a neutral and objective fact finder
- The purpose of the interview is to develop investigative information to determine the subject's possible involvement in the commission of the crime
- If the case evidence, facts and information developed during the investigation and the interview indicate that the subject committed the crime or is withholding relevant information, then the subject is interrogated

- **The Reid Technique is flawed in that the decision to interrogate is based on a faulty assumption**
- Research indicates investigators are unreliable in making decisions about a suspect's possible guilt based on their verbal and nonverbal behavior
- However, the research that forms the basis for this finding primarily consists of students committing mock crimes
- The problems with this type of research are:
 - Low levels of motivation
 - Interviewers were not properly trained
 - The structured interview process commonly used in the field was not employed
 - The research is based on the faulty premise that there are specific behaviors unique to lying
 - Behaviors were not viewed in context
 - There was no attempt to establish a behavioral baseline for each subject
- When research is designed to more closely approximate real life interviews, accuracy improved significantly
- One example: 97.8% accuracy rate detecting deception with the Reid Technique
- This research was conducted jointly by Korea University, Michigan State University and Texas State University *Human Communication Research* 2014

- **The use of minimization techniques**
- There are two types of acceptable minimization techniques:
 - Minimizing the moral seriousness
 - Minimizing the psychological consequences
- We teach to never minimize the legal consequences of the suspect's behavior
- The critics agree:
 - "Police-induced confessions: Risk factors and recommendations" *Law and Human Behavior*
- Interrogation procedures should "permit moral and psychological forms of minimization, but ban legal minimization"
- From the Supreme Court of Canada (*R v Oickle*):
 - "There is nothing problematic or objectionable about police, when questioning suspects, in downplaying or minimizing the moral culpability of their alleged criminal activity."

- **The Reid Technique suggests motives that eliminate criminal consequences from the act**
- It has been stated that we teach to offer the accident scenario as a primary theme, thereby suggesting that there will be no consequences
- Our training is very specific that these excuses (interrogation themes) should minimize the moral seriousness of the subject's crime by offering psychological excuses for the suspect's behavior but not remove legal consequences
- “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.” (Criminal Interrogation and Confessions, page 205)
- “As earlier stated, 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.” (Criminal Interrogation and Confessions, page 213)
- “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.” (Criminal Interrogation and Confessions, page 227)
- Regarding suggesting to the suspect that the crime was an accident we state the following in Criminal Interrogation and Confessions on page 219:
- “A caution is warranted concerning the use of a theme that suggests a morally acceptable motive for the crime. As previously indicated, an interrogation theme should not absolve the suspect from legal consequence associated with his crime. Consequently, an investigator should not suggest, as *the primary theme*, that the crime was committed accidentally.”
- The courts consistently reject the claim from defendants that the investigator's suggestion that the crime was an accident is a coercive tactic:
 - *Hayes v. Plumley* (2016)
 - *Smith v. State* (2014)
 - *State v. Turner* (2014)
 - *Walker v. Davis* (2014)
 - *US v. Hunter* (2012)
 - *State v. Fundaro* (2012)
 - *Commonwealth v. Johnson* (2012)
 - *People v. Carrillo-Garcia* (2012)
 - *People v. Batiste* (2011)
 - *People v. Carrington* (2009)
 - *People v. Wroten* (2007)
 - *Bramley v. State* (2006)
 - *People v. Holloway* (2004)

The Courts' View of False Confession Experts

- Re: Dr. Richard Leo
- "...the Court will exclude Dr. Leo's testimony because his theories are both unreliable and irrelevant to the facts of this case *US v. Deuman*
- Of particular significance to the Daubert analysis here, Dr. Leo has not formulated a specific theory or methodology about false confessions that could be tested, subjected to peer review, or permit an error rate to be determined *State v. Wooden*
- The unreliable methodology, as the circuit court described, resulted in conclusions consistent with Leo's own preconceived beliefs rather than testable results consistent with an objective, scientific process *People v. Kowalski*

- Re: Dr. Richard Ofshe
- Dr. Ofshe's testimony at the Daubert hearing suggested that there was no methodology about false confessions that could be tested, or that would permit an error rate to be determined. *State v. Lamonica*
- Dr. Ofshe's testimony did not contain 'sufficient evidence to confirm that the principles upon which the expert based his conclusions are generally accepted by social scientists and psychologists working in the field. *People v. Rosario*
- In essence, the military judge found that Dr. Ofshe's theory regarding coercive interrogations was not based on rigorous scientific analysis or even subject to scientific testing but was rather Dr. Ofshe's own subjective review of a group of particularly selected cases *US v. Wilson*

- Re: Professor Saul Kassin
- The judge concluded that [Saul] Kassin's testimony did not meet the requirements set forth in the Lanigan case. We agree. As the judge stated, Kassin conceded that his opinions are not generally accepted, require further testing, and are not yet a subject of "scientific knowledge." One of his own publications admitted as much. *Commonwealth v. Robinson*

The Courts' View of the Reid Technique

- The courts consistently uphold the core elements of the Reid Technique.
- In fact, when investigators do not follow the guidelines that we have published in our book, *Criminal Interrogation and Confessions*, the courts may reject the incriminating statements see *US v. Preston* (2014) and *People v. Elias* (2015)
- For example, in the *Elias* case 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:
 - A non-accusatory interview was not conducted before initiating an interrogation
 - The investigator misrepresented the case evidence when questioning a 13 year old
 - There was no corroboration of the incriminating statement
 - There was contamination – disclosing details of the crime

- *U.S. v. Jacques*
- After hearing the testimony of false confession expert Alan Hirsch the court upheld the confession, and stated the following in their opinion:
 - “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 whatever. Although Professor Hirsch insisted that “there is a wealth of information about the risks of the Reid technique,” he could point to none.”

The Best Way to Guard Against False Confessions

- The best way to avoid false confessions is to conduct interrogations in accordance with the guidelines established by the courts, and to adhere to the following practices:
 - 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
 - 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
- For additional information on these and many other issues, visit www.reid.com
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