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Dear Attorney Solomon,

I was shocked at your lack of understanding as to what constitutes The Reid Technique as you described in your article, "'Reid' it and weep - coercive interrogations the norm in Canada."

I am equally shocked at the lack of credibility displayed by the editors in publishing such an article as "News" - implying that it is an objective reporting of the facts. Most "news" stories attempt to provide a balanced report for the readers to evaluate. We were never contacted for any comment or to provide any information relevant to this column.

If you (the author) had read any of our books, publications or articles on our website you would have discovered the following:

The core elements of The Reid Technique have been upheld by a number of Canadian Courts, including the Supreme Court. Here is a brief discussion of several relevant cases:

Canadian Courts

In the case of *R. v. Amos* (2009) the Ontario Superior Court upheld the techniques that the interrogator successfully used to obtain a confession, many of which are elements of the Reid Technique. For example, when discussing the interrogator's efforts to minimize the suspect's moral responsibility, the court stated the following:

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. At no time did he suggest that a confession by the subject would result in reduced or minimal legal consequences. Those questions did not minimize the offence anywhere close to the extent of oppression within the meaning of Oickle and other authorities. In using the words "this is your opportunity" to tell your story, and statements to the effect that "your credibility is at its highest now", and in asserting to the accused that he would not be as credible ten months down the road at trial when he had "spoken to lawyers", and the like, the detective was making an approach to the accused's intellect and conscience.

In *R. v. Oickle*, (2000) the Canadian Supreme Court overturned a lower court's suppression

of an arson confession and expressed implicit approval of many of the interrogation techniques utilized in The Reid Technique. In *Oickle*, the Court of Appeals suggested that the interrogator's understanding demeanor improperly abused the suspect's trust. The Canadian Supreme Court disagreed stating,

"In essence, the court [of appeals] criticizes the police for questioning the respondent in such a gentle, reassuring manner that they gained his trust. This does not render a confession inadmissible. To hold otherwise would send the perverse message to police that they should engage in adversarial, aggressive questioning to ensure they never gain the suspect's trust, lest an ensuing confession be excluded."

Furthermore, in *Oickle*, the Court of Appeals concluded that the police improperly offered leniency to the suspect by minimizing the seriousness of his offense. The Supreme Court again disagreed stating,

"Insofar as the police simply downplayed the moral culpability of the offence, their actions were not problematic."

In *Oickle* the Supreme Court offers support for the investigator's necessity to be less than truthful in persuasive efforts during an interrogation. It referenced to the often cited decision of Justice Lamer who wrote, "The investigation of crime and the detection of criminals is not a game to be governed by the Marques's of Queensbury rules. The authorities, in dealing with shrewd and often sophisticated criminals, must sometimes of necessity resort to tricks or other forms of deceit and should not through the rule be hampered in their work. What should be repressed vigorously is conduct on their part that shocks the community." (*Rothman v. The Queen*, 1981)

In the Reid Technique we teach that when a suspect appears to be debating whether or not to tell the truth, the use of an alternative question can be a very effective means to obtain the first acknowledgement of the truth. Examples of an alternative question include, "Have you done this many times before or was this just the first time?", "Did you blow that money on drugs and partying, or did you use it to pay bills?", "Was this whole thing your idea or did you get talked into it?" It is important to recognize that none of these alternative questions address real consequences the suspect may face. This concept is emphasized repeatedly during training in The Reid Technique, including several examples of improper alternative questions. An example of an improper alternative question is, "If you planned this out and it was premeditated then we're talking first degree murder. That means spending the rest of your life behind bars. On the other hand, if this happened on the spur of the moment then it's just manslaughter." Clearly this alternative question is telling the suspect that if he confesses to manslaughter he will be sentenced less harshly. It is improper and could be used as grounds to suppress a confession.

In *Oickle*, the Court of Appeals expressed concern that the use of an alternative question

implied a threat or promise of leniency. In refuting this argument, the Canadian Supreme Court offers a clear test of whether or not an implied threat or promise crosses the legal line to where an ambiguous statement may invalidate a confession. In their opinion they state,

"The most important consideration in all cases is to look for a quid pro quo offer by interrogators, regardless of whether it comes in the form of a threat or a promise."

A relevant passage from *R. v. Rennie* illustrates excellent insight into the criminal mind:

"Very few confessions are inspired solely by remorse. Often the motives of an accused are mixed and include a hope that an early admission may lead to an earlier release or a lighter sentence. If it were the law that the mere presence of such a motive, even if promoted by something said or done by a person in authority, led inexorably to the exclusion of a confession, nearly every confession would be rendered inadmissible. This is not the law. In some cases the hope may be self-generated. If so, it is irrelevant, even if it provides the dominant motive for making the confession. There can be few prisoners who are being firmly but fairly questioned in a police station to whom it does not occur that they might be able to bring both their interrogation and their detention to an earlier end by confession."

Core Principals of The Reid Technique

There are a number of basic principles that we teach that the investigator should follow when they reach the stage of conducting an interrogation:

- 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
- Be sure to 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

- Always act in compliance with the guidelines established by the courts

It is often stated that the Reid Technique "shows no interest in learning the truth, but the goal is to seek a confession." We clearly state the exact opposite in our book Criminal Interrogation and Confessions (5th edition 2013) on page 5:

"The purpose of an interrogation is to learn the truth. A common misperception exists in believing that the purpose of an interrogation is to elicit a confession.... If the suspect can be eliminated [from suspicion] based on his or her behavior or explanations offered during the interrogation, the interrogation must be considered successful because the truth was learned."

It has been suggested in Canada that it is more effective to conduct a non-accusatory interview in which the investigator tries to build rapport with the subject and develop the truth about the relevant investigative information without any accusations or psychological trickery (referred to as the PEACE Model) - this is exactly what we do in the Reid Technique by beginning with a non-accusatory, fact finding interview process as outlined in our text. In our book several chapters devoted to the topic of conducting the non-accusatory interview.

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Finally, you state in your article the following:

In 2012, a judge of the Alberta provincial court held that, stripped to its bare essentials, the Reid Technique is a guilt-presumptive, aggressive, psychologically manipulative procedure whose sole purpose is to extract a confession.

Accordingly, the court ruled that the confession obtained from the Reid-style interrogation was involuntary and therefore inadmissible.

If you had taken the time to review our website you would have seen our discussion of this case which included the following information (posted on our What's New column on September 20, 2012):

09/20/2012
Canadian Judge finds interrogation process to be 'oppressive' - mislabels as The Reid Technique

Earlier this month a lower court judge in Alberta, Canada in the case R. v. Chapple, found that a confession obtained after an 8 hour interrogation was inadmissible because the interrogation process was so oppressive that the suspect's will was overborne, leading her to

say "what the police wanted to hear". The investigating officers testified that during their interrogation they conducted the interview "using aspects of the Reid Technique." Unfortunately, the judge made the mistake of assuming that everything the investigators did was part of The Reid Technique.

For example, the interrogation in this case was reported to be 8 hours long, during which the suspect "asserted at least 24 times that she wanted to remain silent." In our book, Criminal Interrogation and Confessions (5th ed 2011), we point out that if there is no progress within a 3 to 4 hour period and the suspect remains adamant in their denials, the interrogator must re-assess the situation. Furthermore, we teach that the suspect's rights must be scrupulously honored.

The Reid Technique was described as a "guilt-presumptive" procedure - to the complete contrary, we teach investigators to take a neutral, non-accusatory stance at the start of an interview with the aim of developing investigative and behavioral information. If the investigative information indicates the suspect's probable involvement in the commission of the crime then an interrogation becomes appropriate. We teach that the first contact with a subject should never be an accusatory interrogation.

It should be noted for reference that numerous Canadian courts have supported the basic approaches that we spouse in the Reid Technique when we reach the interrogation phase - such as displaying empathy and understanding toward the suspect during the interrogation. For example, in R. v. Oickle, the lower court suggested that the interrogator's understanding demeanor improperly abused the suspect's trust. The Canada Supreme Court disagreed stating, " In essence, the court [of appeals] criticizes the police for questioning the respondent in such a gentle, reassuring manner that they gained his trust. This does not render a confession inadmissible. To hold otherwise would send the perverse message to police that they should engage in adversarial, aggressive questioning to ensure they never gain the suspect's trust, lest an ensuing confession be excluded."

In the Reid Technique we teach that the investigator should minimize the moral seriousness of the suspect's behavior. In Oickle, the Court of Appeals concluded that the police improperly offered leniency to the suspect by minimizing the seriousness of his offense. The Supreme Court again disagreed stating, "Insofar as the police simply downplayed the moral culpability of the offence, their actions were not problematic."

In a more recent case, R. v. Amos, the court 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. At no time did he suggest that a confession by the subject would result in reduced or minimal legal consequences."

False or coerced confessions are not caused by the application of the Reid Technique, they

are usually caused by interrogators engaging in improper behavior that is outside of the parameters of the Reid Technique - using improper interrogation procedures - 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; etc.

As one U.S. District court stated, "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." US v. Jacques, (2011).

For additional information see an article we wrote about two Canadian court decisions regarding the elements of the Reid technique on our website at http://www.reid.com/educational_info/canada.html.

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My final thought is that this article and the fact that the editors published it without any apparent attempt to determine the accuracy of the content, simply confirms the view held by many that accuracy in the media is a dying art.

Joseph P. Buckley
President
John E. Reid and Associates