

The Reid Technique of Interviewing and Interrogation

In this position paper we will address the following issues:

- The core principles of the Reid Technique
- Best Practices
- Why false confession experts criticize The Reid Technique
- What the courts say about false confession experts
- What the courts say about The Reid Technique
- The best way to guard against false confessions
- “Reid” testifying as interrogation experts
- How do I answer the question, “Do you use the Reid Technique?”

The core principles of The Reid Technique

The Reid Technique is built on a core of principles that include the following:

1. Always conduct interviews and interrogations in accordance with the guidelines established by the courts.
2. Do not make any promises of leniency
3. Do not threaten the subject with any physical harm or inevitable consequences
4. Do not deny the subject any of their rights
5. Do not deny the subject the opportunity to satisfy their physical needs

Best Practices

The successful interrogation is one in which the suspect tells the truth to the investigator and, persuasive tactics used to learn the truth are legally acceptable. With these goals in mind, the following are a list of best practices for applying the Reid Nine Steps of Interrogation, along with a brief discussion of each practice:

Conduct an interview before any 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.

When interrogating a non-custodial suspect, do not deprive the suspect from his freedom to leave the room. The suspect's exit from the interrogation room should not be impeded by the investigator placing his 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 pass code 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!"

Do not conduct excessively long interrogations. In most instances, if the suspect is still adamantly maintaining his innocence and has not made any incriminating statements or admissions after three to four hours of interrogation the interrogation should be re-assessed and most likely terminated.

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, the murder weapon that was used, 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.

Why false confession experts criticize The Reid Technique (and what they say)

It's too effective

False confession experts recognize the effectiveness of The Reid Technique in developing admissions of guilt from the guilty party. At a conference on false confessions at Temple University Law School in Philadelphia several years ago, Professor Saul Kassin made the statement that The Reid Technique is a perfect system to get confessions from the guilty. In the case *US v. Jacques*, (2011) false confession Professor Alan Hirsch testified, "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."

False confession experts attack The Reid Technique because they **erroneously** (and in some cases intentionally) attribute to it interrogation practices that contribute to false confessions. There are primarily five elements that contribute to false confessions:

- Excessively lengthy interrogations
- Threats of harm or inevitable consequences
- Promises of leniency
- Denial of a subject's rights
- Juvenile subjects and mentally/psychologically impaired subjects

As we stated previously in this document in all of our training manuals, interrogation books and articles, **we teach the exact opposite**: do not conduct lengthy interrogations (see Best Practices re the 3-4 hour guideline); do not threaten the subject or make promises of leniency or deny the subject any of their rights. We have published in our book, *Criminal Interrogation and Confessions* (5th ed., 2013) and in our course training manuals, that the investigator must exercise special precautions when interviewing juvenile or mentally impaired individuals. See www.reid.com for additional information.

Misrepresenting evidence to the subject

False confession critics oftentimes testify that lying to subjects about evidence causes false confessions and that the Reid Technique encourages investigators to lie about evidence. However, when you examine false confession cases you realize that it was not the misrepresentation of evidence that caused the false confession, but rather threats, promises, denial of rights or excessively long interrogations that were the triggering factor. Furthermore, we are very specific as to what we actually teach regarding the reference to fictitious evidence during an interview or interrogation.

In *Criminal Interrogation and Confessions* we state the following:

In 1969 the United States Supreme Court upheld a defendant's confession that was the result of the police falsely telling the subject that his accomplice had confessed, implicating him in the commission of the crime. In their opinion, the court stated that "the totality of circumstances" must be considered in determining the voluntariness of a confession. *Frazier v. Cupp*

However, in the non-accusatory interview that should always be the first contact with the subject, we teach that the investigator should not lie to the suspect about non-existing evidence.

In an interrogation we recommend the following with respect to introducing fictitious evidence during an interrogation:

1. 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. Clearly, there are disadvantages to introducing evidence, real or fictitious, during early stages of an interrogation.
2. 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.
3. 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.

Research demonstrates that lying to a subject about evidence causes false confessions

This claim is based on two Kassin studies that were carefully examined in the *Jacques* case. The District Court stated the following:

“At the *Daubert* hearing, Professor Hirsch also mentioned two experiments in which researchers tested certain interrogation techniques—specifically, the techniques of confrontation and minimization, noted above—on college students. The first of these studies, commonly known as “the Alt-key Study,” required students to perform a data entry project and warned them not to hit the computer's Alt key, which would cause the computer to crash. The researchers forced the system to crash, falsely accused the students of hitting the Alt key, and confronted them with a “witness” who reported seeing them do so. Under these circumstances, some number of the students signed written confessions despite their innocence.

In the second study, students were given a set of assignments and told that in some assignments collaboration with classmates was acceptable, while in others it was prohibited. The researchers then accused innocent students of improperly collaborating on certain assignments, informed them that they had violated university rules prohibiting cheating, and, for some, minimized the extent of their wrongdoing and encouraged them to take responsibility for their actions. In the group subjected to the minimization techniques, the “confession” rate tripled.

Obviously, these “interrogations” were not conducted by law enforcement, were not part of a criminal investigation, did not involve actual suspects, and did not present the students with a serious penalty. As a result, Professor Hirsch readily admitted that these studies have “limited value,” which, in the context of this case, is an understatement.

The purpose of an interrogation using The Reid Technique is to get a confession

False confession critics oftentimes claim that the purpose of the Reid Technique is to get a confession at all costs – whether it is a true confession or not is immaterial. Here is what we actually teach (Criminal Interrogation and Confessions):

The purpose of an interrogation is to learn the truth.

There are a number of possible outcomes of a successful interrogation other than obtaining a confession from the guilty party. Some of these are: (1) The subject is identified as innocent; (2) The subject did not commit the offense under investigation but lied about some aspect of the investigation (motive, alibi, access, etc.); or (3) The subject did not commit the offense under investigation but knows who did.

Some false confession experts, in this case Dr. Richard Leo, suggest that “*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.*” Deposition April 2013 *Caine v. Burge*

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, as early as in the 3rd edition of *Criminal Interrogation and Confessions* published 28 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!"

"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."

"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."

"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."

Dr. Leo (from the same deposition):

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.*"

Dr. Leo chooses to ignore the fact that in the 2nd edition of *Criminal Interrogation and Confessions*, published 47 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."

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."

In our 3rd 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."

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

Corroboration

False confession critics often point out that in some confirmed false confession cases the confession contains details that only the guilt suspect should have known. We consistently teach that it is imperative for an investigator to conceal details of the crime so that the disclosure of that information by the subject can be used to assess the veracity of his statement (see Best Practices above).

The Reid Technique is flawed in that it is based on an assumption of guilt

False confession experts often testify that the Reid Technique is flawed because it is based on an assumption of guilt – a conclusion reached by the investigator based on their assessment of the subject's verbal and nonverbal behavior symptoms during the investigative interview. The false confession experts testify that almost all of the research suggests that investigators are very inaccurate in evaluating a subject's behavior for indications of truth or deception.

In reality, most of the detection of deception research that "experts" refer to in making this criticism involves studies that were conducted in the laboratory using students to commit mock crimes. Laboratory detection of deception research studies do not produce helpful results.

In fact, in *US v. Jacques*, Professor Hirsch testified, in referring to two laboratory studies conducted by Kassin trying to illustrate that misrepresenting evidence can cause false confessions, "these studies have "limited value." There are a number of reasons that laboratory studies are generally not applicable to reel 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 subjects.
- 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 (see discussion below).
- 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.

However, 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:

- High-stake lies are detected at higher rates than low-stake lies.

(O'Sullivan, M., Frank, M. G., Hurley C. M., and Tiwana, J. (2009). Police Lie Detection Accuracy: The Effect of Lie Scenario. *Law and Human Behavior*, 33, 6, 530–538 published February, 2009. The authors point out that their results “suggest that police professionals perform significantly better when they are judging material that is high stakes, and therefore, more similar behaviorally to what they experience on the job. . . . The results suggest that it is a mistake to generalize from mean lie detection accuracy estimates obtained from college students. . . .”

- When an investigator understands the context in which an interview is taking place (for example the case facts and background information) accuracy in the assessment of a subject's behavior symptoms greatly increases.

(Blair, J., Levine, T., and Shaw, A. (2010). Content in Context Improves Deception Detection Accuracy. *Human Communication Research*, 36. The study demonstrated that when evaluators knew the context in which the interview took place “they performed significantly better than chance and significantly better than 40 + years of research suggests they would. Clearly, knowledge of the environment in which deception occurs facilitates accurate deception judgments beyond what is possible based on observations of nonverbal leakage.”

- Accuracy in detecting deception with real-life suspects is significantly higher than suggested by studies that use subject's in a mock crime scenario.

(In their research paper entitled, “Detecting True Lies: Police Officers' Ability to Detect Suspects' Lies,” (*Journal of Applied Psychology*, 2004) the authors asked 99 police officers to “judge the veracity of people in real-life high-stakes situations.” The authors describe this study as unique because they tested “police officers' ability to distinguish between truths and lies in a realistic setting (during police interviews with suspects), rather than in an artificial laboratory setting.” The results were that “the “accuracy rates were higher than those typically found in deception research.

- Training and experience in the field of behavior symptom analysis significantly increases the ability to detect true and false statements.

(Strategic Use of Evidence During Police Interviews: When Training to Detect Deception Works. *Law and Human Behavior*, 2006 the authors report that trained interviewers “obtained a considerably higher deception detection accuracy rate (85.4%) than untrained interviewers.” Also see “Police Officers' judgments of veracity, tenseness, cognitive load and

attempted behavioral control in real-life police interviews,” (*Psychology, Crime & Law*, 2006)

In addition to the above, two studies conducted under federal grants from the National Security Agency identified significantly high degrees of accuracy for investigators identifying truthful and deceptive subjects during real life Behavior Analysis Interviews (Criminal Interrogation and Confessions).

Minimization

Some false confession experts describe The Reid Technique as an interrogation process by which the investigator engages in minimization in which he mitigates the offense and downplays its seriousness while also using maximization in which the investigator exaggerates the strength of evidence against the suspect and the magnitude of charges. It is argued by these experts that the use of these techniques causes false confessions.

The emphasis of the Reid Technique is to create an environment that makes it easier for a subject to tell the truth. An essential part of this is to suggest face-saving excuses for the subject's crime which include projecting blame away from the subject onto such elements as financial pressure, the victim's behavior, an accomplice, emotions, or alcohol.

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 crime 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.” (CI+C 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.” (CI+C 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.” (CI+C page 227)

Regarding the issue of maximization, as stated earlier we never teach to threaten inevitable consequences during an interrogation.

“The first step of successful interrogation consists of causing a suspect to view his situation as hopeless.”

Some false confession experts testify that the first step in the interrogation process is make a subject feel that his situation is hopeless and that the only way to get out of the situation is to confess.

Nothing could be further from the truth. This statement or goal never appears in our textbooks or seminar manuals and is never taught at our training programs. On page 49 of our training manual and in Chapter 15 of *Criminal Interrogation and Confessions*, we teach the opposite, that it is improper to tell the subject that he is facing inevitable consequences. We reference cases where

innocent people falsely confessed because the investigator improperly convinced the subject that he would suffer consequences regardless of his denials.

"The second step of successful interrogation consists of offering the suspect inducements to confess - these inducements include appeals that directly communicate that the suspect will receive less punishment, a lower prison sentence, and/or some form of police, prosecutorial, judicial, or juror leniency if he complies with the interrogator's demand that he confess."

These types of inducements are clearly illegal in the United States as well as Canada and we teach investigators never to use these tactics. There are multiple references to these illegal interrogation tactics in both our training manual as well as our text, *Criminal Interrogation and Confessions*.

What the courts say about false confession experts?

Here are some court comments about the testimony 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, and any limited probative value they might have is substantially outweighed by the potential dangers of undue prejudice and misleading the jury.... Dr. Leo's theory, at least at this stage in its development, provides neither a useful nor appropriate basis to assist a jury in assessing whether a particular confession, or even incriminating statement, was false. *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. Dr. Leo's research on false confessions has consisted of analyzing false confessions, after they have been determined to be false..... " *State v. Wooden*
- "[Leo] starts with the conclusion that the confession is false and then he works backwards.... He doesn't take into consideration why someone might falsely confess, other than because of a police interrogation technique.... [A]nd there are reasons why people would falsely confess, they might be trying to protect someone.... He hasn't determined a reliable means to have a study group consist of innocent people who wrongfully confess that weren't mentally ill or youth.

With regard to the data underlying Leo's testimony, the circuit court reasonably determined that its sources were unreliable because they were prone to inaccuracy or bias and, in nearly all instances, had not been subjected to the rigorous standards of scientific peer-review. Additionally, the circuit court raised multiple legitimate concerns about the "manner in which [Leo] interpret[ed] and extrapolate[d] from those data." 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. In this area of research, the result of the lack of any reliable testing format to establish predictors of when a false confession might occur is a methodology consisting of analyzing false confessions only after a confession has been determined to be false.”
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. Therefore, his anticipated testimony that psychological coercion was employed during the interrogation of defendant,, which in his opinion would induce a person to falsely confess, does not meet the Frye standard for admissibility." *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. By way of example, at one point Dr. Ofshe testified that his theory concerning the impact of certain police interrogation techniques on the danger of false confessions was as intuitive as the fact that the sun will come up each day." *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. Accordingly, his proposed testimony that certain interrogation techniques have previously produced false confessions does not meet either the general acceptance or reliability criteria established by the Lanigan case." *Commonwealth v. Robinson*

See www.reid.com for additional examples.

What do the courts say about The Reid Technique?

- “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. The Reid technique is a trademarked interrogation method developed by the firm of John E. Reid & Associates, Inc....” 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.

... Professor Hirsch's declaration offered no other evidence of the danger of certain police interrogation tactics, and the Reid technique in particular, except to say that “the use of these tactics [employed in the Reid technique] and their correlation with false confessions are extensively documented in the literature....Despite this broad statement, he did not provide any further explanation...”

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.” *U.S. v. Jacques*

In the Appeal of this decision the US Court of Appeals stated the following:

- “In this case, the agents' statements exaggerating the quality of their evidence, minimizing the gravity of Jacques's offense, and emphasizing the negative media attention that would attend Jacques's trial all fall safely within the realm of the permissible “chicanery” sanctioned by this and other courts.”

Regarding the technique of minimizing the moral seriousness of the offense the Supreme Court of Canada 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." *R v. Oickle*
- “[Investigator] testified that he used an interrogation technique that involves "minimizing the actions [of defendants to suggest] that they are less culpable for their actions, whether it be due to a chemical dependence or being under the influence of alcohol or drugs or being [under] the stress of a single parent." Therefore, this interrogation technique does not entail the use of outright falsehoods, but rather the use of subtle subterfuge. Given that police are permitted to mislead a suspect, they are likewise permitted to use minimization techniques." *State v. Belogna*
- “There is nothing problematic or objectionable about police, when questioning suspects, in downplaying or minimizing the moral culpability of their alleged criminal activity.” *R v. Oickle*

With respect to the issue of rationalizing the subject's behavior,

- "suggestions that the ... homicide might have been an accident, a self-defensive reaction, or the product of fear, were not coercive; they merely suggested possible explanations of the events and offered defendant an opportunity to provide the details of the crime. This tactic is permissible.” *People v. Harrington*
- Along these same lines, the court in the case of *State v. Fundaro* found that rationalizing a defendant's actions (self-defense/accident) in such a way that he "might hope that he would not be charged with murder" did not render the confession inadmissible.

On the issue of whether or not it is coercive for the interrogator to portray an empathetic, understanding and friendly demeanor to the subject, in *People v. Powell* the court said that

- "There was no improper coercion here. It is no exaggeration to say that Sergeant Alexander came across more like a mentor than a police officer during the interview. He spoke about family, character, overcoming problems, accepting responsibility for wrongdoing, and becoming a better man. He urged Powell to "walk the righteous path, to "do the right thing," to "tak[e] control of your life."

In *Sanchez v. McDonald* the court stated that

- "The Court is unaware of any Supreme Court authority where an officer building rapport with a suspect in a friendly manner would cause a resulting confession to be considered involuntary."

Finally, the Supreme Court of Canada in their decision to overturn a lower court's ruling, they stated the following:

- "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." *R v. Oickle*

To review additional cases in which the courts support the core principles of The Reid Technique, see www.reid.com.

The best way to guard against false confessions

The best way to avoid false confession 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
- 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

False 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 core principles 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.

On our website we provide numerous examples in which electronically recording the

interrogation preserved the admissibility of the confession by allowing the judge or jury to see the process and to be able to determine for themselves that the statement was voluntarily made.

“Reid” testifying as interrogation experts

We have worked extensively with prosecutors supporting the admissibility of confessions developed by law enforcement. On three occasions we have testified in court on behalf of the defendant/plaintiff regarding proper versus improper interrogation techniques. We believe that the overwhelming majority of investigators conduct proper interviews and interrogations. As a result we consistently reject requests to testify for the defense.

How do I answer the question, “Do you use the Reid Technique?”

Defense attorneys oftentimes ask the investigator, “Did you use the Reid Technique when you interrogated my client?” If the investigator acknowledges using The Reid Technique the defense will often follow up with a question to the effect, “Isn’t it true that The Reid Technique is criticized because it generates false confessions?”

The investigator must provide the answer that he or she is most comfortable with, but contrary to the suggestion by the defense attorney’s follow up question (“Isn’t it true that The Reid Technique is criticized because it generates false confessions?”) no courts find fault with the core principles of The Reid Technique. While false confession expert may try to attribute to The Reid Technique the tag that it generates false confessions, as the US District Court said in *US v. Jacques*, “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.”

It is reasonable for any investigator to testify that their interrogations are governed by the guidelines and principles established by the courts and that represent the core of The Reid Technique.