

**CRIMINAL
INTERROGATION**

Third Edition

CRIMINAL INTERROGATION

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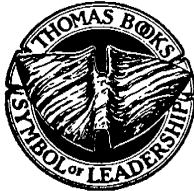
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*To my sons, Arthur S. Aubry, III,
and Eugene Leonard Aubry
And to my Grandson,
Eugene Leonard Aubry, Jr.
A.S.A.*

*To my grand children, Renee Caputo, Russell Caputo,
Robynann Caputo and Denis Saloman, Jr.
R.R.C.*

FOREWORD

THE DIFFICULTY OF MAINTAINING A CLIMATE OF LAW AND ORDER BECOMES MORE PROBLEMATICAL with each passing year. The rate of criminal explosion has outpaced the population explosion five to one. The annual cost of crime has been estimated as far in excess of twenty billion dollars. This inexorable rise in crime and the number of criminals has all too often been the occasion for finger-pointing at law enforcement—the most visible of the many public and private agencies concerned with the administration of criminal justice.

History is replete with the astonishing record of the ludicrous helplessness and tragic sufferings of authority and the people which were the consequences of inability to comprehend the urgency of preventing crime and disorder. The industrial revolution and its attendant dislocations nearly dealt western civilization a mortal blow and democracy, as we know it, could not have survived but for the effectiveness of the police systems which were ultimately initiated in the nineteenth century.

Today the world is on the threshold of an electronic automation revolution which may be expected to create social problems of a magnitude heretofore unimagined. Part of the rising incidence of crime and the increased range of law enforcement problems may already be attributable to the socioeconomic repercussions of the first stages of this dynamic upheaval. The

sociological implications of yesterday's mechanical technocracy will be magnified factorially by the fantastic capabilities of the new technology.

The need for a comprehensive understanding of the inexorable impact of revolutionary social forces upon the maintenance of domestic tranquility is matched only by the vital necessity of research and development in the total area of the administration of criminal justice. Placing the blame upon the police for the increase in the amount of crime and the number of criminals is a futile and hypocritical release of frustration. Far better to generate a firm resolve to think courageously and allocate the required intellectual, professional and financial resources to mount a total, interdisciplinary offensive against crime.

The first step in such a renaissance of civil consciousness concerning the horrors of crime should be community acknowledgment of full responsibility to the police service. Policemen have borne the brunt of attacks upon the community which in turn has responded with little realization of the policeman's difficulties and needs. There has been little support forthcoming for law enforcement aspirations, even though the imperatives of preserving individual freedoms, while suppressing crime, call for professionalization of the highest order. The public must be made aware of the dedication of the police to justice, and of their efforts to optimize civil liberty by balancing and preserving individual rights.

The next step toward a new era of effective crime prevention should be to achieve a unitary effort among all professional disciplines directly or indirectly capable of contributing their resources to the all-out struggle. Interjurisdictional cooperation between and among practitioners in a single function, strongly supplemented by continuous interdisciplinary coordination of all relevant functions, can optimize society's thrust to meet the strong challenge of crime in the remaining years of the twentieth century.

Law enforcement needs the support of the public, but it needs also to march forward shoulder to shoulder with prosecutors, the courts, and with juvenile and adult probation, parole and correction authorities. Autonomous and sometimes divergent

and contradictory courses to reach the common goal are luxuries that we can ill afford. Teamwork and mutual understanding must align all men of good will in a common direction and eradicate discord, distrust, lack of confidence and suspicion. Victory will not be achieved by disintegrated forces.

Thus, the response to this prime challenge of our era is the pursuit of excellence in the art and science of law enforcement, and the marriage of police operations with all the disciplines of the administration of criminal justice. Governmental agencies, community societies and resources, foundation funds, college and university potential, research and development capability—all should be enlisted in the common cause and joined in harmonious unison so that the many may each contribute a meaningful share to the total endeavor.

Can such a symphony of so many varied instrumentalities ever be achieved? The pressure of necessity is so severe and the profundity of the problem is so great that we must not fail. It is in this perspective that we should applaud *Criminal Interrogation* as a fine contribution to the professional literature of law enforcement. An advanced literature in the police field of study will help us mightily along the road to professionalization. There is still an arduous path ahead, but here is a book which takes a giant step toward our goals. Here is a work produced by dedicated professionals for the guidance of all who practice or are associated in any manner with professional law enforcement.

The authors were not content to curse the darkness, they sought to illumine the way in an essential but often misunderstood area of police operations. The finely balanced approach of the authors to one of the most delicate subjects of study in law enforcement speaks well for their sensitivity to human relations, civil rights and civil liberties, and their regard for the sanctity of constitutional safeguards and guarantees.

It is hoped that the material in this book will stimulate in its police readers an ever greater resolve to adorn the profession with fine writing, and flesh out our body of knowledge with a comprehensive library that captures the best thinking of our practitioners. This volume is also recommended reading for all those who still conjure up visions of the rack and screw, and who think

of police officers in terms of the rubber hose and bloody station house floors. It is impossible for an intelligent person to read *Criminal Interrogation* and still remain a distorted stereotype of the law enforcement officer.

The solution to many of our crime problems lies in closer and more meaningful participation and dialogue between the police and the community that they serve. This book should inspire lay readers to accept greater responsibility for the quality of law enforcement, and change some of the attitudes about this vitally important, and too often neglected, branch of the administration of criminal justice. It is particularly recommended reading for prosecutors, judges, and probation, parole, and correction authorities.

Congratulations to Rudy Caputo and Arthur Aubry! Keep up the good work!

ROBERT R. J. GALLATI

INTRODUCTION

THE WORD "INTERROGATION" HAS AN UNPALATABLE CONNOTATION. TO THE CRITICS OF A TECHNIQUE which is an application of Aristotle's principles of persuasion, the entire procedure of questioning a suspect involves the control and the manipulation of human behavior. In totalitarian countries there is no doubt that this is true. There are too many incidents reported and confirmed concerning the methods used in such countries to force compliance with the will of the interrogator, for anyone to doubt that this situation prevails.

In the United States of America, interrogation, particularly criminal interrogation, is a facet of the overall investigative process, and the authors would remind the doubting individuals that American investigators and interrogators are sworn to honor and uphold the law, and not bend or twist the law for any reason. Interrogation, to American officers, is an aid to investigation, a process, a technique, a tool by which they may arrive at the truth of the matter under investigation.

The American officer does not seek to confuse a suspect for the purpose of having that person make a false statement. Instead, the interrogator seeks admissions and confessions which partly result from the fact of a thorough, complete, and exhaustive investigation; admissions and confessions which must be substantiated and verified by additional investigation. The confession of

a suspect to the crime of murder is not, in itself, sufficient to allow prosecution or conviction. Every detail of a man's confession must be checked and rechecked by investigation and reinvestigation; by reconstruction of the scene of the crime; by reenactment of the crime itself; by the statements and accounts of witnesses where this procedure is possible; by verification of the suspect's motive to commit the crime, opportunity to commit the crime, and probability that he committed the crime. Additionally, the corpus delicti of the crime must be established satisfactorily.

The interrogator does not hammer away relentlessly at a suspect's failure to recall the exact hour and minute; nor does he make any incriminating insinuation or suggestion from this lapse or failure of memory which is no more or no less than a common, human failure. Neither does the American interrogator attempt to make the suspect look guilty in order to suppress protestations of innocence from him. He does not attempt to make the suspect look guilty in order to impress superior officers or colleagues with his brilliantly applied tactics of confusion.

There is no doubt at all that human behavior may be and is influenced by practitioners of behavior manipulation. Witness Russia; anyone may be made to admit to anything at any time and for any or no reason. Advertising tells us what breakfast food to eat; what pills to relieve heartburn; what cigarette is the mildest, smoothest, and coolest; even what toilet paper to use. We do purchase the things we see advertised because advertising techniques have hammered an awareness of them into our subconscious.

In our democratic system, an innocent man cannot be made to confess to a murder he has not committed by mere persuasion tactics alone. He might make such an admission or confession if beaten, starved, or held in solitary confinement for extended periods of time, methods which are not American, and repugnant to any man who lives in freedom. An additional safeguard in this respect is the fact that the use of methods of this nature renders the officers liable to criminal prosecution.

Interrogation is as honorable a technique as any other legal procedure. No one criticizes the use of the legal technique known as cross-examination, used in court by both the prosecutor and the defense attorney. Cross-examination is an extremely fascinat-

ing process, but it is a much simpler process than interrogation. In court, the defense attorney has all of the available information readily available on a moment's notice—the testimony of witnesses, the testimony of the investigators, all of the exhibits which have been admitted into evidence.

In the interrogation room, the interrogator works on the assumption that because there is evidence, and this evidence will be available, it is possible that the suspect may be involved as charged, might have guilty knowledge of, or perhaps might be innocent of the crime charged. Moreover, in the interrogation room, witnesses and suspects are not under oath, and may lie as much as they dare. Additionally, they may object to questions put to them by the interrogator, and may refuse to answer if they so desire. The competent interrogator does not attempt to cloud the issue or play fast and loose with the truth by the clever use of verbal smokescreens; nor does he try to get the confession "at all costs" and regardless of who might be hurt in the process. The interrogator who would force a confession from an innocent man is himself guilty of a double crime—and no self-respecting American investigator or interrogator would dare violate his oath to uphold justice, a fact which too many persons are all too ready to believe.

The processes and techniques of interrogation are in no way related to magic or witchcraft. True, such techniques have often been overdramatized through the media of television, movies, and radio. In reality, these processes, procedures, and techniques are nothing more than traditional, and well-accepted practices. "Murder will out," is a truism which is accepted by all; Freud said that "man cannot keep a secret" and Hans Gross, the criminologist, stated, "the way must be paved for a man to tell the truth." Theodore Reik has devoted an entire book to the thesis that within every man there is a compulsion to confess, to relate his crime.

Man was born to tell the truth. It is only his environment which teaches him that the truth may frequently lead to grief, pain, punishment, and embarrassment. The schoolboy who admits throwing a spitball at the teacher quickly finds himself rewarded with a clout on the ear. In the future, he will be extremely careful to conceal either knowledge of, or implication in, such horseplay

if he again indulges in it. In early childhood we are strictly cautioned against expressing our true opinion of Aunt Susie's rather odd manner and mode of dress, because we make the early discovery that Aunt Susie resents having her hat described as a "flower-pot," and is quite apt to withhold gifts in the future after hearing us describe the hat in this manner.

The compulsion in man to confess is very strong. When a man has committed a crime and conceals it, this concealment weighs heavily on his conscience. "I want to tell someone the truth" he tells himself, but the vision of prison, and the fact that he may even have to surrender his own life, quickly deters him from such action. That is, he will be deterred from talking about the crime for a period of time.

The competent interrogator is aware of the fact that man can not bury the truth too deeply in the labyrinth of his mind and conscience, too deeply not to be disinterred by the clever shovel work of the competent interrogator. Thus, by attempting to persuade the suspect to tell the truth, take whatever punishment is meted out, and thus earn his re-entry to society, the interrogator seeks to lessen the resistance of the suspect. By the application of logic, which shows the suspect the futility of resistance, by the sympathetic approach which helps the suspect realize that he is not a monster and that his crime is not unique, the interrogator paves the way for the suspect to tell the truth.

There are interrogators who may be without moral or legal scruple. Unscrupulous individuals are found in all professions and in all ways of life, but they would never be exposed to the challenges that the interrogator must face when he testifies concerning the confession he has secured, particularly the voluntary nature of the confession. It is the voluntary nature of the statement which is always attacked in court, and the proficient interrogator must be able to swear that he has not coerced, threatened, or unduly influenced the suspect in any manner in order to get him to make the confession—and he must also demonstrate the fact that he made no promises to the suspect in order to secure the confession.

There will always be those who will have fixed in their mind the image of the interrogator as a cruel, coercive, police repre-

representative bent only on forcing an innocent man into confessing to a crime which he has not committed. It is hard for these individuals to visualize the interrogator as a highly reputable, competent, dedicated public servant, anxious to serve and protect the public by the apprehending of criminals, and the bringing of them to justice.

The selection of law enforcement representatives is made only after they have passed rigid examinations, and all-inclusive background investigations. Are we to suspect such men as capable of prostituting themselves and their chosen profession, by sending innocent men to jail? Man confides his innermost secrets to his wife, his dear friends, his close acquaintances; he seeks release from the punishment due to sins and transgressions against the moral law and the Ten Commandments of God, through the sacrament of Penance, during which process he confesses his sins and transgressions to a priest, alone and in private, with just the priest and himself present. Man also frequently confesses his crimes to a representative of the law enforcement profession, a skilled and competent criminal interrogator. The truth will out, and men will tell the truth. Why then, should doubt be cast only upon the disclosures made to the interrogator?

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A.S.A.
R.R.C.

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Arthur S. Aubry, Jr.: *The Officer in the Small Department*, Charles C Thomas, Publisher, Springfield, Illinois, 1961.

Rudolph R. Caputo and Richard O. Arther, *Interrogation for Investigators*, William C. Copp & Associates, New York, New York, 1959.

CHAPTER ONE

CRIMINAL PSYCHOLOGY
THE PSYCHOLOGY OF INTERROGATION

Introduction

THE CRIMINAL INTERROGATOR WILL FIND THAT A RATHER COMPLETE AND THOROUGH KNOWLEDGE OF criminal psychology is one of the basic tools required for the conduct of consistently successful criminal interrogations. The more complete and thorough the interrogator's background knowledge and understanding of psychology in general, and criminal psychology in particular, the more his chances increase in bringing the interrogation to a successful conclusion, the securing of the incriminating statement and the confession of guilt from the guilty suspect.

We are concerned with the definition of psychology, and with the application of psychology to criminality. Psychology is defined as the science which treats with, and has as its subject matter, the human mind in each and every of its aspects. Psychology may also be considered as the systematic knowledge and investigation of all of the various phenomena of consciousness and behavior. In a broad sense, psychology is considered to be the traits, characteristics, feelings, actions, attributes, attitudes and mental outlook, singly or collectively, of the human mind.

The word "psychology" itself is derived from the ancient Greek, and is a combination of the words "psyche" and "logos." Psyche may best be considered as the mental self, or the ego, the essential part of a human being that constitutes his mind or mentality. The psyche may also be considered as the human soul, the

human mind, and in a sense, the mental life of the individual. Logos is the Greek word for science, or a study. The word also has Latin roots, and it is found as "logia" in classical Latin. Psychology then, is the science which treats with the human mind. Criminal psychology is that branch of the science which is concerned and which treats with the criminal mind and mentality and with the end-product of the criminal mind, crimes and criminal activity.

The law holds the individual responsible for his acts. The law also indicates what is good and right, and what may and should be done. It also indicates what is evil and wrong, and should not and may not be done. The law further holds that what is evil and wrong is a crime and may not be done, and if done, renders the doer liable to punishment. The law also recognizes the principle that man has free will and that, with certain exceptions, he exercises free will in the commission of any crime that he may commit.

Crimes allow to various degrees of seriousness and consequences, from minor traffic offenses to the most serious of felonies, treason and murder. Law as a human institution in the form of statute law, or traced down from antiquity in the form of morality and tradition, is nothing more nor less than restatement of the natural law of divine institution which enjoins upon mankind the responsibility to do what is good and right, and avoid doing what is evil and wrong; more basically stated: "Do good and avoid evil."

In the approach to criminal psychology it would be helpful to classify criminals and criminal activity in its various aspects and manifestations. Causality of crime does not serve as an adequate basis for classification due to the simple fact that causality is often far too complex and complicated, and each act of a criminal nature might have from one to a limitless number of causes. As psychologists or criminologists we might well be interested in the causes of crime, but as Interrogators we are primarily concerned in the fact that the crime has been committed, and in who committed it. The cause of the crime would certainly be of interest to the interrogator, but it would be of secondary importance to the fact of the crime, and to the fact of the criminal.

We might, with some profit to our general understanding of criminal psychology, attempt to classify the individual criminal himself, by considering the various types of individual criminals. Criminals are not types, however, they are individuals, and the Criminal interrogator will be working with individuals and not with types. The seven types or categories of criminal that we will discuss are arbitrary, and experience teaches that the vast majority of criminals will be contained in these seven divisions.

Before considering these seven categories we might consider criminal intent and the corpus delicti of a crime. In considering any criminal act, the law insists that there must have been intent to commit the criminal act itself, and to be punishable as a crime under the law, the intent must be present at the time the crime was committed. For practical purposes, intent must be demonstrated as being present before the actual commission of the crime. Intent is also part of the corpus delicti of the crime.

The corpus delicti of the crime is the terminology and legal designation which indicates the total fact of the crime itself, the body of the crime, all those facts, incidents, occurrences, and other matters contributing to the total fact of the crime, and anything else related to, pertaining to, or associated with any of the particular aspects of the crime, which contribute to the total fact of the crime.

The legal principle evolving from intent, and intent to commit the crime in question, is simple, and to the effect that for a punishable action to result from an antisocial or criminal act, the intent to commit the antisocial or criminal act must have been present, in direct relationship with the seriousness of the crime. The particular application of intent lies in the area of establishing intent in conformity with the gravity of the offense.

For example, if an individual kills another with premeditation he might be punished, if found guilty, for the crime of murder in the first degree, the premeditation in this case being a qualifying factor and consideration in the intent involved. If an individual kills another without premeditation, he might be found guilty of the crime of murder, in some degree less than the first degree, and he cannot be found guilty in the first degree with the element of premeditation missing. Lack of intent, or a lesser