

CRIMINAL INTERROGATION



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Warren D. Holmes was a member of the Miami, Florida Police Department from 1951 to 1963. He was assigned to the Lie Detection Bureau from 1955 to 1963 and then left the police department to open a private polygraph testing firm. Mr. Holmes is the past president of Florida Polygraph Association and the Academy for Scientific Interrogation (the predecessor name of the American Polygraph Association).

Mr. Holmes has lectured about criminal interrogation in many organizations including the FBI, CIA, The Secret Service, Canadian Police College and the Singapore Police Department.

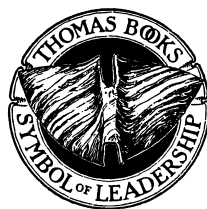
Mr. Holmes has conducted polygraph examinations in many nationally known cases such as the assassination of President John F. Kennedy, the murder of Dr. Martin Luther King, Jr. and Watergate.

CRIMINAL INTERROGATION

A Modern Format for Interrogating Criminal
Suspects Based on the Intellectual Approach

By

WARREN D. HOLMES



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This book is dedicated to Miami Herald Editor, Gene Miller, my partner in the pursuit of truth, who made it possible in three different cases to free four people who were wrongly convicted of first-degree murder.

Special thanks to my daughter, Debra Holmes, whose technical skills were a major contribution to this book.

FOREWORD

A newspaper reporter telephoned Warren D. Holmes shortly after the Ocean Drive sidewalk assassination of designer Gianni Versace on Miami Beach in 1997. What did he know about serial killers? Quite a bit, it turned out. At the end of the interview, the reporter asked casually how many homicide cases he had worked. Oh, “hundreds,” Holmes replied. The next morning he read “scores.” A skeptical editor had lowered it. Only then did Holmes have his secretary count—by name, date and report—homicides he’d investigated. Although few records survive from his 12 years with the Miami Police Department (maybe 400 cases), he’d kept an accurate account for his private practice. At publication of this book in 2002, that number had hit 537. And he is still counting. Perhaps no man in America has confronted as many murder suspects as Holmes. There is a reason for it. He is a superb interrogator. He gets killers to tell the truth. He obtains confessions. The confessions are valid. They are very damn thorough. “A surgeon doesn’t take out half a cancer,” he tells defendants.

Left uncounted here—in a career that began in 1951—are thousands of other suspects in non-lethal crimes: thieves, bank robbers, hoodlums, embezzlers, rapists, arsonists, scam artists, politicians on-the-take, drug lords, crooked cops, computer hackers, purse snatchers, shoplifters, and in general, people in trouble; some innocent bystanders, some guilty bystanders, some wrong-place-wrong time unfortunates, and other mere observers (or voyeurs) of the human condition. Aren’t we all?

The opus here qualifies as a how-to book, and extremely unusual one. Specific arguments for incest suspects? Well, here they are. Murders that look like accidents? Got ‘em. The topic is interrogation. . .not the polygraph. . .and it begins with the sad realization that 85 percent of criminal defendants lie to their own attorneys.

In a classic understatement, Holmes explains that people don’t confess to interrogators they don’t respect. That is a crucial key. In the interrogation room, Holmes is strictly business with a pure no-nonsense formality. That doesn’t mean he can’t be ingratiating and charming, for he is, but his success emanates from force of personality. He is inquisitive, incredibly persistent, ruthlessly logical, and when necessary, quite sympathetic.

Wrongdoers, he declares, like to hear that despite the act committed, they are not all that evil. Provocation, rather than their character, prompted the act. “One of my favorite arguments is to point out there are certain life forces so powerful that no rational thought process can control them. Anger is one. At times, we are all victims of anger.”

And then, almost always, he asks a couple of final questions. “What have I forgotten to ask you?” Then, “Do you have any knowledge of any unsolved homicides?” Sometimes, the answers are real shockers.

Along the way, over the years, Holmes worked cases not easily forgotten: the John F. Kennedy assassination, Martin Luther King assassination, Watergate, financier Robert Vesco, Philadelphia mayor Frank Rizzo, the William Kennedy Smith rape allegation, and the Pitts and Lee malfunction of justice.

As a reporter and editor at *The Miami Herald*, I’ve labored with Holmes on-and-off for 40 years. Twice I’ve received the Pulitzer Prize for reporting where Holmes helped prove that defendants were wrongly convicted of murder. The jury doesn’t give awards for criminal interrogation. It should.

GENE MILLER
Miami, Florida
February 22, 2002

PREFACE

For a number of years, I put aside writing this book. I was concerned that any book written about criminal interrogation exposes the author to the naïve, to the technicians of the law who are quick to find fault, and to those individuals who believe that all police interrogation should be outlawed.

I was also concerned that I would be writing about a subject so difficult that no nation has created an ideal system of criminal interrogation fair to the suspect, but with sufficient latitude for the police to determine proof. This failure is evident by the number of nations that employ torture instead of reasonable methods of inquiry.

I finally reached the conclusion that despite the inherent problems writing about criminal interrogation, I would assume the risk, hoping that what I have to say will be beneficial to the less experienced interrogator. In my opinion, there will always be debate as to the moral and legal implications of what transpires in any criminal interrogation session. In view of that fact, it is my intention to simply tell you what I think you should do and say as an interrogator to get the job done. The contents of this book are empirically-based, and I believe this is an honest reflection of my life experience as a polygraph examiner.

In retrospect, it is my opinion that the inherent difficulty in criminal interrogation is manifested by the margin of error in perceiving guilt or innocence and the length of time it takes an average person to become sufficiently experienced to reach an acceptable degree of proficiency.

Ideally, to learn how to interrogate, one should be exposed to talented interrogators in action. Any book about criminal interrogation cannot be a complete substitute for the daily or weekly experience of interrogating criminal suspects.

Recognizing that fact, it was my plan to write a “how to” book which I hoped would provide a framework for enhancing one’s personal experience.

The scope of this book includes a step-by-step procedure for interrogation from the moment the suspect enters the interrogation room to the time he leaves.

One of my primary purposes in writing this book was to answer a complaint I hear most often when I lecture, “Mr. Holmes, I always run out of things to say to a suspect.” To answer that complaint, I have provided suggested interrogational arguments for specific crimes.

When you finish reading this book, I hope you have one predominate thought, “you don’t obtain confessions by asking the suspect questions. You have to convince a suspect to confess by the use of persuasive interrogational arguments.”

W.D.H.

INTRODUCTION

The Problem: Deception as a Tool of Evolution

Mankind's effort to determine absolute human truth has been a dismal failure. There is a simple reason for this, human beings are much more proficient at lying than at detecting lies. Deception has been around a lot longer than truth-telling. In fact, telling the truth was not really needed until man started to band together; to form social groups; then the truth was needed for the administration of public affairs. Deception is the counterbalance to aggression, which is the fuel of evolution. Deception is used to enhance and cope with aggression. It is ironic that the species that have survived and prospered through the process of evolution are those that have mastered the art of deception. Both predator and prey depend upon it.

Early man apparently became so frustrated trying to determine human truth that he turned the job over to the Gods. Thus, trial by ordeal and combat came into being. It was deduced that if a person survived or was victorious in combat, he must have had the Gods on his side and therefore was truthful as well. It soon became apparent that some guilty people were escaping their just desserts. So torture became the most popular means of getting confessions with an accompanying assumption of truth. Both the state and the church condoned the use of torture. In fact, the state actually prescribed rules for the administration of the torture. To this day, torture is used in most countries to obtain confessions. The problem with torture, besides being atavistic in nature, is that it may produce a confession from a person with a low pain threshold, and you still won't know if you have obtained the truth.

As the rule of law evolved, as a natural consequence, so did the concept of an adversarial judicial system. The underlying premise of the judicial system is that the truth would emerge out of a clash between combatants in the court of law. Unfortunately, legal truth and the absolute human truth are too frequently different. An adjunct to the judicial system, law enforcement agencies developed exotic means to determine human truth through the use of hypnosis, truth serum, and the polygraph. I've used all three and they all

have limitations. In my opinion, the polygraph has the fewest.

Thus far, no one has solved the problem of obtaining absolute human truth nor has anyone developed an ideal format for achieving it. When an interrogator sits across a desk from a criminal suspect, he is looking at the by-product of thousands of years of evolution. The suspect's greatest striving in life has been to protect his ego. His only interest is self-interest. Often you know he is guilty, but he is such a good liar that he can make you doubt your own mind. This book will give you the tools to combat this formidable adversary and to attain the most satisfying outcome of criminal investigation; obtaining a confession through astute interrogation.

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CRIMINAL INTERROGATION

Chapter I

CASE ANALYSIS

All criminal interrogations should begin with case analysis. The facts contained in offense reports, supplemental reports, witness testimony, lab reports and the input from fellow investigators help the interrogator formulate an approach before the suspect even enters the Interrogation Room. Case analysis will reveal a possible motive and give insight into the personality of the perpetrator. Case analysis often reveals whether or not the suspect is the common denominator in similar crimes, whether the crime was a planned or spontaneous act and whether the evidence against the suspect is physical, direct or circumstantial.

Case analysis helps the interrogator formulate a theory as to how the crime was committed. This theory then becomes the format for questioning. Case analysis will often reveal a mitigating factor that the interrogator can use to help the perpetrator rationalize his act and prompt him to tell the truth.

The interrogator should be a master detective and know the probative value of most evidence. He should know the danger of drawing conclusions too quickly and that the only opinion that counts is his last one. Of the people involved in the judicial system, the interrogator has the best opportunity to determine what actually occurred at the time of the crime. He deals with the suspect on a one-on-one basis in a controlled environment. The interrogator has all of the evidence at his disposal. He can talk to witnesses who are sometimes unavailable to the defense. The interrogator has the resources of his department to back him up. He should represent the old Eastern Airlines' slogan; "There is no substitute for experience."

As the person with the best shot at determining guilt or innocence,

the interrogator also has the attendant liability of holding the suspect's fate in his hands. In all of the miscarriage of justice cases that I have worked on and studied, the mistakes made in those cases were initiated at the level of the lead investigator and interrogator. Those mistakes were then compounded by naive prosecutors who had no police experience.

We all know the danger of becoming married to a theory. In the pursuit of truth, ego is an insidious, undermining influence. When an interrogator becomes married to a theory, he risks ignoring all contrary evidence or indications that he could be wrong. Over the years I have learned from the mistakes I have made to be more objective and not to take things for granted. In time, the experienced interrogator learns the margin of error in witness identification, forensic lab reports and expert testimony. In the past, I have been terribly misled by reports on back-typing of blood, hair comparisons and handwriting analysis.

I once interrogated a murder suspect for more hours than I should have. I was convinced of his guilt based on the ballistics report. The exasperated suspect finally looked at me and said, "Tell me what you want me to say and I'll say it." I knew then that something was wrong. I suggested that the investigator take the suspect's gun and have it tested in another department. Their report indicated that the suspect's gun was not the murder weapon. I had placed so much faith in the initial ballistics report, that I had ignored my own polygraph test results.

The largest margin of error in the American Criminal Justice System is caused by faulty witness identification. An experienced interrogator should know not to automatically assume guilt just because the suspect has been identified. There are several reasons mistakes are made in witness identification.

1. Someone is apprehended in the vicinity of the crime who fits the general description of the culprit.
2. Since the police have the person in custody, the witness goes along assuming the police know best and have the right suspect.
3. The identification is made to provide closure.
4. The identification is made to satisfy the instinct for revenge.
5. The witness fears alienating the police or appearing stupid by admitting doubt.
6. Poor lighting at the scene.

7. The witness has poor eyesight.
8. The influence of drugs or alcohol.
9. The lineup is deliberately skewed toward a particular suspect.
10. The trauma of the crime alters the witness's perception.
11. Insufficient time is allotted to view the suspect.
12. The identification is biased by overemphasis on a single characteristic such as eyes, voice, or item of clothing.

Many people are convicted based on perjured identifications. A victim or witness will deliberately identify the wrong person to protect someone else. They will do this out of fear or revenge or to divert the attention of the police away from themselves or someone they are protecting. It is difficult to conceive that someone would frame an innocent person by making a false identification but it's done often by someone who wants to get out of jail or get his sentence reduced. Professional snitches often dupe both the police and the prosecutors. They have become a national problem. Most professional snitches are psychopaths, drug addicts and alcoholics. Mainly, they are prolific liars.

Any testimony induced by hypnosis should be suspect. In the 1950s and 1960s, hypnosis became a new tool for the police. In Florida, the use of hypnosis in criminal cases caused so many problems that now such testimony is prohibited.

Many years ago, I worked on a case where two Black men were convicted and sentenced to death for killing two gas station attendants. Several years after their conviction, I got a confession from the man who actually killed the two attendants. During a motion for a new trial, the judge allowed a key witness against the two Black men to be hypnotized in court. Under hypnosis, she testified she saw the two Black men commit the killings. She put on a great act and duped the judge who denied a new trial. Eventually, after a team put in years of work on their behalf, the two Black men were pardoned and received compensation from the State of Florida for their wrongful convictions. This case taught me firsthand how dangerous testimony induced by hypnosis can be.

Recently, I worked on a case where a man was sentenced to death based primarily on the testimony of a juvenile who had been hypnotized and subsequently testified against the defendant. The inmate was scheduled to die in the electric chair in nine days when I was asked to review the trial transcript. I became convinced the juvenile had lied.