

**FUNDAMENTALS OF
CRIMINAL INVESTIGATION**

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Seventh Edition

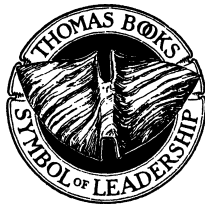
*Fundamentals of
Criminal
Investigation*

By

CHARLES E. O'HARA

and

GREGORY L. O'HARA



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*To
Louis Sattler*

PREFACE TO THE SEVENTH EDITION

THE SEVENTH EDITION continues the tradition of concentrating on the essential elements of a criminal investigation. The computer revolution and the advancements in criminalistics have immeasurably increased the effectiveness of the investigator. One can now access sources of information from a personal computer in the office. Prior to the Automated Fingerprint Identification System, a single fingerprint, found at the scene of the crime, would not lead to an arrest, unless the investigator already had a suspect whose fingerprints he could use for comparison. Now the computer can develop a suspect from information in its database. In a matter of minutes, the single fingerprint can be entered into the computer and compared with all of the fingerprints of those persons with criminal records. The computer will print out a list of possible suspects, those people whose fingerprints most closely match the unknown print. Through DNA analysis, the investigator can uniquely identify a suspect with only minute quantities of biological evidence or with samples that have been degraded through age or weather. With the introduction of CODIS, a nationwide computerized DNA identification system, this type of physical evidence will take on a much greater significance in an investigation. CODIS has the capacity to receive DNA evidence found at a crime scene, where there are no suspects, and identify a possible suspect from the information in its database. It allows federal, state, and local law enforcement units to work together to solve crimes.

With all of these technological advancements, the basic activities of the investigator have remained unchanged. He will construct the investigation around the establishment of the elements of the offense. The investigator will be responsible for collecting evidence; documenting the crime scene with a notebook, reports,

photographs and sketches; interrogating suspects; and developing information from interviews and public sources, and through informants, surveillance, and undercover work. Often he will be assisted by crime scene specialists and other personnel. All of these activities are performed with the view of eventually presenting the evidence in court.

While the investigator is concerned with proving the guilt of a suspect, he must also be prepared to establish his innocence when indicated by the facts. Objectivity and a professional attitude should characterize the investigator. Part of a professional attitude is a respect for the constitutional rights of suspects, informants, witnesses, and any citizen he comes in contact with during the course of an investigation. A criminal investigator, especially when he serves as a government agent, should reflect the democratic ideals of his country.

In this Seventh Edition, a number of changes have been made. Among the new topics introduced are stalking, carjacking, home invasion robbery, drug-facilitated rape, electronic evidence collection, clandestine laboratories, and the CODIS identification system. There has been an extensive revision of the narcotics chapter to reflect the changing patterns of illegal drug use. Ecstasy, methamphetamine, dissociative anesthetics, ritalin, OxyContin, inhalants, and anabolic steroids are some of the more commonly abused drugs that are treated here for the first time. The "Additional Reading" sections, at the end of each chapter, have been updated and a glossary of useful criminal investigation terms has been introduced. The chapters dealing primarily with scientific methods, which were more appropriate for a course in criminalistics, have been removed. A selection of new illustrations and tables have been added. These changes should improve this present edition.

I would like to thank the professors and students at John Jay College of Criminal Justice for their encouragement and support during the preparation of this edition. I am especially grateful for the illustrations in the new edition contributed by Dr. Werner U. Spitz from the *Medicolegal Investigation of Death* and by Raymond P. Siljander and Darin D. Fredrickson from *Applied Police and Fire*

Photography. The suggestions and corrections of Professor Paschal Ungarino, formerly Head of the Department of Criminal Justice at Suffolk Community College (NY), and Mr. Harrison C. Allison of the Marion Institute (AL) have greatly improved previous editions of this text.

G.L.O.

INTRODUCTION

THE PURPOSE of this book is to bring the reader to an intermediate level of attainment in the main branches of investigation. From this point he may be able to proceed, with the help of other literature and his experience, to specialized fields of crime detection or non-criminal inquiry. It is not presumed that from mastery of the contents of this book the reader will become an accomplished investigator. The detection of crime is, after all, not a science but an art, whose secrets are not likely to be captured in any great part between the covers of a book. Techniques such as interrogation and surveillance are acquired mainly through patient practice and self-criticism. The student can, however, bypass months of aimless apprenticeship if he learns at the outset of his career the significance and application of the basic tools of investigation, which have been described in Chapter I as the three "I's" – Information, Interrogation, and Instrumentation.

It is the object, then, of the present book to introduce the student to investigative work in such a way that he shall, on the one hand, learn what is meant by a complete investigation and acquaint himself with the proofs of the most important crimes, and, on the other, become familiar with the employment of technical methods and services available to him. The book, as its title indicates, is intended as a presentation of the foundations of investigation. An attempt has been made throughout to lay a sufficiently broad groundwork to enable the reader to pursue his further studies intelligently, rather than to carry any single topic to exhaustive completeness. Since a selection was necessary, those offenses have been chosen for treatment which are serious in nature or relatively frequent in occurrence. The extension to other crimes of the principles elucidated here should be well within the powers of the attentive reader.

The presentation is directed to the beginning student of the art of investigation. The experienced investigator and the supervisor may, of course, find some material that is instructive or interesting. Little has been said of the administrative practices and problems of a detective division or an investigative agency, and such administrative information as is given is necessarily of a fragmentary and accidental character. The text throughout is addressed to the "investigator," a term chosen in preference to such titles as "detective" and "agent" because of its more general nature. Thus the ideas and precepts have been arranged for practical application by a city detective or plainclothesman, a private investigator, or a federal agent. Military personnel may find the work particularly useful in view of the fact that many of the paragraphs devoted to legal matters reflect the principles of the Uniform Code of Military Justice.

The many recommendations to be found in these chapters are often put in the form of rules and are sometimes permitted to stand unqualified. This manner of presentation does not imply that the recommended method is the only effective procedure for the investigation. The student will understand that, although these precepts are based on accepted practice, they have been interpreted with discretion and a reasonable elasticity. The learner, however, must be guided by rules until he knows enough about investigation to be superior to the rules. He must submit himself temporarily to this discipline, knowing well that there is a freedom beyond the rules and that this freedom is the result of discipline. The rules are the discipline of learning.

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**FUNDAMENTALS OF
CRIMINAL INVESTIGATION**

Part I
GENERAL

Chapter 1

METHODS OF INVESTIGATION

1. Nature of Investigation

A CRIMINAL investigator is a person who collects facts to accomplish a threefold aim: to identify and locate the guilty party and to provide evidence of his guilt. Investigation is an art and not a science; hence it must be discussed in terms of precepts and advice rather than laws and rigid theories. The element of intuition or felicity of inspiration in the choice of methods has its effect on the outcome despite the most methodical and exhausting treatment of a case. Then, too, there is the matter of chance which cannot be omitted from consideration.

In order, however, to provide a basis for a logical discussion of investigation as an applied art, it is necessary to create for ourselves the fiction that it is a science, complete with general principles and special theorems; that, if the investigator operates in harmony with the rules, the case will be inexorably solved; that a failure to solve a particular case is attributable to the employment of unorthodox methods or the neglect of prescribed procedures. With these assumptions, we can proceed to build our structure.

The tools of the investigator are, for the sake of simplicity, referred to as the three "I's," namely, Information, Interrogation, and Instrumentation. By the application of the three "I's" in varying proportions the investigator gathers the facts which are necessary to establish the guilt or innocence of the accused in a criminal trial. The remaining chapters of this book are an exposition of the nature and use of the three "I's."

It should be noted at this point that there are no normative criteria for judging the success or failure of an investigation. The fact