

Getting After the “Dark Figure” of Reid: A Meta-Analysis

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Author Note

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Abstract

Much research has been done, which aims at the use of the Reid Technique in the interrogation room. The technique, named after Reid and Inbrau, uses an aggressive presumption of guilt tactic that has been blamed for the unconstitutional coercion of criminal confession. Those that argue against the use of the technique are typically proponents of the cognitive technique, an interrogation model that eschews the aggressive “finger-pointing” of the Reid technique in favor of more friendly interactions, where the suspect is set up to tell their side of the story freely. Should they be attempting to lie during a cognitive interrogation, the concept of cognitive load will interrupt their ability to continue lying as their mental reserves dry up. However, the research, as well as the so-called empirical data that has been uncovered as a result of the research, not only results in wildly differing numbers and statistics, but almost universally refers to a “dark figure” that attempts to account for the unaccountable. Almost all research points to this unknown data as a variable that can never be identified, yet still is not stopped from making a claim against the technique. The intention of this article, and the research within of nearly 600 criminal court dispositions in the state of New York from the years 2000 to 2020, was to show that there is no known correlation between the use of one technique or another and the ultimate disposition of a criminal case. Instead, the “dark figure” is used to represent the idea that there is almost an infinite amount of variables in criminal cases, and it would be a mistake in all but the most obvious cases of wrongdoing on the behalf of the interrogator to pick any type of interview as the sole culprit for incorrect police procedure.

Keywords:

Interrogation, Interview, Reid, Cognitive

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Chapter One: Problem Statement

When it comes to deciding the guilt or innocence of a man, a personal confession of culpability should be the benchmark after which all other types of evidence strive to be. There could be a hundred witnesses, even a hundred victims; none of their statements would be as powerful or compelling as the criminal himself admitting the committal of the crime for which he is accused. After all, if a case suffers from a lack of evidence, or implausible witness accounts, or a number of other things that would likely get the case dismissed, a man accepting the punishment for his crime as he confesses his guilt would turn the whole thing around.

However, this is not always the case, as many confessions obtained by interrogators nationwide are found inadmissible (Gallini, 2010, p. 529) for many reasons. Without going too far into detail here, there are many factors that go into the decision if evidence is admissible in court. When it comes to confessions, if there is a belief that the confession was wrongfully acquired, it will almost immediately be thrown out. The Reid Technique is blamed for this happening on many occasions (Gallini, 2010; Garrett, 2010; Hritz, 2017; Poveda, 2001). It is seen as too coercive or as a bullying tactic if the interrogator continues to assert their dominance and continually hounds the suspect until they confess (Cassell, 1998, p. 501). If confessions are rendered inadmissible, there must be a driving force; there must be a reason why the criminal claiming their criminality does not automatically render a decision in favor of the prosecution. Immediately apparent is the disregard for a person’s 5th Amendment rights, which protect them from self-incrimination.

Once an admission of guilt is placed into admissible evidence, it creates a situation in which the defendant is essentially testifying against himself in court (The Yale Law Journal

Company, Inc., 1993, p. 1432). Those that argue against the use of Reid and advocate for the cognitive technique are still supporting interrogation, just in a different, less combative form (Duke, Wood, Bollin, Scullin, & LaBianca, 2018, p. 66). However, if this was completely illegal, then interrogators would have stopped trying for confessions in the first place. This leads to the possibility that even though they run the danger of causing a man to incriminate himself, the prosecution almost universally sees the confession as their most dangerous weapon (Kassin & Sukel, 1997, p. 27). If this is true, then it may not be the confession itself that is rendered inadmissible, but instead the method for obtaining the confession in the first place.

In an ever-changing world, continually improving/upgrading/aging items are referred to as generations. There are generations of people, such as Generation X and the Baby Boomers. There are generations of technology, ranging from outdated technology that likely will never be used again to the cutting-edge of electronic capability. While this can be said for many things; the focus of this paper is on the generations of interrogation techniques against suspects of crime. The so-called first generation, popular in 1950's America, was known as the “third degree”. These interrogations would usually involve some sort of pain compliance and other torturous techniques in order to gain a confession (Gallini, 2010, p. 530). When it became obvious these techniques were not only cruel but also would get suspects to say just about anything (read: false confession), the second generation, the Reid Technique, created by Reid and Inbrau, found its place in the then-modern interrogation room (Gallini, 2010, p. 531).

These interrogations, based on the contemporary Miranda Rights advisement, took away interrogators' abilities to harm or otherwise coerce their subjects into confession. This is not to argue that all aggressive techniques were removed from the interrogation room, however; interrogators, stripped of their ability to hurt a suspect, had to devise new ways to get their

clients to talk. The Reid Technique was still based on the presumption of guilt (Cassell, 1998, p. 500). It was essentially a scenario where the interrogator would explain to the suspect his wrongdoing, and continually push them to agree to the charges levied against them (Gallini, 2010, p. 533). While this technique has found scores of success, many are up in arms against it, citing that while it does not include the threat (or actual use) of physical violence, the techniques used by interrogators are still coercive in nature (Gallini, 2010; French, 2019; Garrett, 2010). They include lying to the suspect, hinting in one way or another that their confession will somehow be beneficial to them, or just sitting there in the interrogation room with them for hours and giving them no option but to request legal counsel (thus ending the interrogation) or to admit their guilt. (Gallini, 2010, p. 531).

The proponents against the Reid Technique argue that it is time for a new generation. Just as people and technology continue to advance, so too must the ways police interact with their clients. Policing in America had shifted away from a night watchman style of policing and moved towards community policing models, and now is focused on problem-solving policing which has caused some researchers to plead for interrogation reform as an extension of the “friendly police officer” (Jenkins, 2016, p. 222). The Reid Technique, dependent on certainty of guilt and essentially explaining to the suspect why they committed the crime and ultimately waits for them to simply agree, needs to be replaced according to those against it.

Antagonists of the Reid Technique are asserting there are newer, better types of interrogation that have been used with great success with victims and witnesses of crime without empirical proof; this paper aims to figure out if these techniques are an extremely viable tool for suspect use as well, despite the term “dark figure” being used over and over to describe the possibility that a new technique may be useful, but also may just be wishful thinking (Cleary,

2017, p. 127). The idea is that instead of using the guilt-presumptive tactics of Reid, the cognitive-load ideas introduced in the cognitive technique are just as well-suited for the suspect as they are for victims and witnesses.

This new form of interrogation, which will be described in detail during the literature review, is not even referred to as an interrogation, rather an interrogation. It introduces the concept of cognitive load on the subject, and counts on them to tell a story, rather than simply answer yes, no, and open-ended questions from the interrogator. When used with victims and witnesses of crime, it attempts to paint the picture of the crime itself, relying on memory and perception to tell the story. When it comes to lying, cognitive load becomes taxing as the person struggles to keep their story coherent. Researchers supporting the cognitive technique argue that if this new type of interrogation is used, suspects of crime, should they forego their right to remain silent, would give information freely, would be caught lying if that was the case, and would eventually either invoke their rights or end up telling the story, realizing their lying was just prolonging the interrogation. Either way, their confession, should it be given, would be given of their own free will and not a product of “bullying” or other coercive tactics (Dando, Wilcock, & Milne, 2008, p. 68).

Most of the reasons that cause an admission to be thrown out fall into one of three categories: if the confession was received as a result of physical harm or the threat of such action, if the suspect was promised leniency or otherwise favorable conditions in response to their confession, or if they were not made aware of their Miranda rights (Kassin & Sukel, 1997, p. 27). While a lost confession is not the end of the world, getting a confession thrown out can have drastic effects on several things, from the outcome of the case to the cost of it. The Miranda Rights, an absolute must in today’s policing world, are used to inform a suspect of their

Constitutional rights before they are essentially asked to answer questions that can be used against them in a court of law. Once Miranda was finalized, so began a whole new bevy of legal issues. It was thought that if a suspect waived their rights, then anything they said or were essentially coerced to say, would be used against them if applicable. Unfortunately, the ways in which this information was obtained, even after a suspect waived their rights, came under fire. Even though the standards set forth by Miranda have been around for over 50 years, courts across the country still not have a clear understanding, nor do they have a widely accepted standard, for the types of techniques police may use during an interrogation (Slobogin, 2017, p. 1157).

This is not about the usefulness of Miranda, or the use of interrogation techniques to obtain a confession. In fact, the use of interrogation techniques are arguably the cornerstone of what it really means to interrogate in the first place; after all, police officers and investigators speaking to someone with the goal of getting them to admit guilt to a crime that could otherwise take away their God-given freedom will almost always require some sort of manipulative, psychological technique in order to prove successful.

The concern at hand, then, is whether the technique that was used to essentially replace the so-called “third-degree” method that was so prevalent in 1950s America (Gallini, 2010, p. 531), known as the “Reid Technique” after John E. Reid and his colleague, Fred E. Inbrau, is even useful in today’s interrogation room, that the physically abusive techniques of the third degree and the psychologically forceful, though massively different from one another, all boil down to an aspect of suspect abuse.

Beyond its usefulness, is there another technique that can stand up better in courts? After all, Reid and Inbrau made it very clear at the beginning, once their technique was gaining

popularity, that the technique could in no way discern between a true or false confession (Gallini, 2010, p. 531).

Looking into the issue at hand, the research typically failed to investigate how many times the Reid technique has lost the admissibility of a confession. Many articles have come forth addressing the coercive nature of Reid, and have claimed its responsibility in the loss of several cases, but almost all of those articles also state the actual numbers of false confessions due to the use of Reid are likely impossible to quantify; unless there is data somewhere identifying how many times police investigators actually used the technique itself, as compared to how many times that confession was thrown out, is referred to as a “dark figure” that makes identifying just how dangerous it may be to use such a technique difficult to achieve. Instead, one must realize that the Reid Technique is based on several different “steps” that make it what it is. The entire technique was blamed for thrown-out confessions, but no part of it was identified as the actual culprit.

The original Reid Technique was penned with nine steps: accuse the suspect, offer possible excuses, cutoff attempts to deny involvement, overcome offered explanations, hold the suspect’s attention, move suspect toward admission, reframe the issue as a choice of the crime committal as being done for a good reason, versus a bad one, elicit a full confession, and finally, write out the confession (Costanzo & Krauss, 2018, p. 40). With these steps in mind, and focusing mainly on the steps that make Reid unique (from accusing the suspect to overcoming offered explanations), it becomes clear that the basis for argument against it is the more or less antagonistic approach may be the issue.

Adversaries of the technique would be quick to offer the cognitive interrogation to take the place of the antagonistic and coercive Reid Technique. There are four main components of

the technique that have been identified as “most likely” to cause a Reid interrogation to become admissible.

Firstly, Reid involves loss of control by the suspect (Costanzo & Krauss, 2018, p. 40). This should be an innocuous strategy, as it seems to make sense that control is what the interrogator absolutely must maintain. After all, losing control of the interrogation will likely result in the interrogation becoming useless, as no real information will be collected, or even worse, can cause the interrogation to become combative.

The second strategy involves the social isolation of the suspect (Costanzo & Krauss, 2018, p. 40). The purpose of this isolation is to prey on the very thing that makes people what they are: the need to connect. The interrogation room, by its very nature, can be a hostile environment indeed when there is no one to talk to but “the enemy”.

The third strategy is the certainty of guilt (Costanzo & Krauss, 2018, p. 41). The final strategy is minimization of culpability (Costanzo & Krauss, 2018, p. 41), where, continuing in the same vein from certainty of guilt, the interrogator finds “reasons” the subject committed the crime, often downplaying the seriousness of the crime itself through minimization, projecting blame for the crime on someone or something else, or rationalizing the crime. All these strategies are used to get the confession. It should also be considered that the nine steps used in Reid are identical from Reid and Inbrau’s lie-detection techniques, which are already inadmissible in court (Gallini, 2010, p. 534).

As stated earlier, most of the researchers that decry the Reid Technique offer very little data concerning if the Reid Technique was used and subsequently thrown out; instead, it may be easier to find if confessions gained through these antagonistic or psychologically manipulative techniques were rendered inadmissible. To corner the techniques, Gallini (2010) focused on pre-

Miranda confessions that were deemed inadmissible because they were, in his opinion, gained involuntarily. If this is to be the case, one of the earlier cases in which this would be the issue would be *Ziang Sun Wan v. United States* (1924), in which Wan admitted guilt after two weeks of relentless police interrogation, after which he developed a severe illness (Gallini, 2010, p. 549).

While this is a more extreme circumstance, one could argue that anyone that confesses to a crime after consistent badgering, finger pointing, and threatening, all techniques that seem permissible in Reid, would be deemed just as unworthy for examination in the courtroom. Gallini is not alone in his pursuit either, as several researchers have found the Reid Technique to be a way to “torture” a suspect without the use of physical force (Adler, 2016; Costanzo & Krauss, 2018; Garrett, 2010). Again, Reid in no way condones this sort of violence, and in fact was likely a response to reduce the number of interrogation room atrocities that occurred. However, it is still likely that more cases, more bound by today’s interrogation room standards, still take unfair advantage of the suspect (Adler, 2016; Costanzo & Krauss, 2018; Garrett, 2010). While Gallini understood these cases were not examples of why Reid was useless (as the technique and *Miranda* were not yet in existence), he contended that although the “wrongfulness” was on a much smaller scale, it still maintained the qualities and results of the “third-degree” type of interrogation (Gallini, 2010, p. 537).

Post-*Miranda* case *Brady v. United States* (1970) explained that the promise of leniency, no matter how slight, and not necessarily illegal, however done without legal representation, is enough to bar the confession (Slobogin, 2017, p. 1170). *Hutto v. Ross* (1976) added to *Brady* by assessing the “plea-deal”, done with no lawyer present, is essentially the same (Slobogin, 2017, p. 1170). *Arizona v. Fulminante* (1991) indicated that direct or implied promises during

interrogation, directly violate the Fifth Amendment (Slobogin, 2017, p. 1170). Two cases, *North Carolina v. Butler* (1979) and *Connecticut v. Barrett* (1987) both saw the confessions thrown out because the suspects were led to believe that anything they merely said and did not write in a statement were not usable in court (Slobogin, 2017, p. 1174). *Berghuis v. Thompkins* (2010), where investigators allowed the suspect to believe that simply remaining silent was enough to invoke his right to silence (Slobogin, 2017, p. 1174).

There are many more cases in which police interrogators either lied, misled, or otherwise manipulated subjects into giving a confession. Arguments against these techniques simply see these tactics as underhanded and, if believed to be so by the court, should be removed from the admissible evidence list. However, cases such as *Frazier v. Cupp*, *Oregon v. Mathiason*, and *State v. Nightingale* are excellent reminders that, “underhanded” or not, such practices are lawful and even obligatory when interrogators are dealing with people that will say anything to falsely prove their innocence (Morris, 2012, p. 286).

The question, then, becomes such: what techniques should be used in the interrogation room? If the so-called first generation of “third degree” interrogations were supplanted by the emergence of the less violent, and more psychologically manipulative Reid Technique, as well as other techniques that relied on deception, they could be referred to as the second generation. Is there room for a third generation? Would the use of the cognitive technique address the concerns presented by these researchers? What research can be done to further this argument?

There is no perfect solution; that would require a measurable problem. “Not only do we not know how often confession contamination occurs, but due to its insidious nature, reforms may not completely eradicate the problem” (Garrett, 2010, p. 1117). With that in mind, it would be almost impossible to link the number of false confessions to actual use of the Reid Technique,

and it would be even more difficult to see which of those confessions, false or not, that were gained through use of the Reid Technique, were eventually thrown out of court, and finding empirical evidence concerning just how responsible the Reid Technique is, with the possibility that there are other factors that ultimately determine the case outcome, would be very difficult; this has been consistently referred to as the “dark figure” and results in experts throughout the criminal justice scholarly pursuit to come to wildly different conclusions of the effects of the technique.

There is still data that asserts there is an alarming number of false confessions in the interrogation room. As technology increases, so have the capabilities of forensic investigation. DNA evidence, not available long ago, is now being used to exonerate many people found guilty of crime, to include those found guilty because of their false confessions (West & Meterko, 2016, p. 719). In fact, nearly one-third (31%) of identified wrongful conviction cases (cases in which a person that in fact did not commit the crime was found guilty and sentenced) are the result of false confessions in the interrogation room, and had no other discernible contributing factors (such as forensics errors or eyewitness misidentification) leading to a guilty verdict (West & Meterko, 2016, p. 765). Simply stated, there are several things that can contribute to a wrongful conviction, but almost a third of them are solely attributed to false confessions. Clearly, the need for reformed interrogation techniques is being examined, though it consistently reports differing information regarding the amounts of wrongful confessions.

This is the proposal: Newer investigative techniques, such as those used to interrogation victims and witnesses, which rely more on cognitive storytelling while staying away from blaming and other negative psychology, could also be used when interrogating suspects of crime. Doing so may likely produce more admissible true confessions, thereby decreasing the number

of improperly dispositioned cases. However, such a change must be backed up by solid data. Without the objectivity of conclusive fact, the idea to replace Reid with the cognitive technique is merely a suggestion.

Rather than find a single number that predicts the numbers of false confessions and unlawful confessions, and using that as the basis for argument, this article will identify as many cases as possible in which confessions garnered from the use of the Reid Technique were thrown out, and identify any common occurrences between them. Previous analysis of this topic has been largely subjective; results of anywhere from 4% all the way to 30%, even some showing 60% of all Reid confessions are inadmissible (Thompson, 2010, p. 2) proves that there is certainly a “dark figure” that no one has taken the time to identify.

How many interrogations have used the Reid technique and were the sole source of the confession being thrown out? How many confessions have stood in court? Is there actually a difference in the number of “good” confessions between Reid and cognitive? Is there a way to determine the failing of the Reid Technique (should it exist), and is it something that can be answered to with the use of the cognitive technique? By identifying the already existing literature, both for and against the Reid Technique, and by delving into case dispositions around the country, a better understanding of the usefulness of the Reid Technique can be determined.

Chapter 2: Review of the Literature

To validate the use of one technique (or more) over Reid, the reasoning behind interrogations and what they are attempting to achieve must be thoroughly understood. The idea of the police interrogation seems to be against human nature in the first place. If a person commits (or at least is believed to have committed) a crime, a psychological game of chess begins as the interrogators do whatever they can to get the accused to admit to their wrongdoing.

Just as a child lies to their parents to avoid trouble, why would a person freely communicate their culpability, knowing that it will likely get them into more trouble? This is where the interrogator must break through the barrier, and essentially get the accused to commit to the idea that “coming clean” is, at the least, a way to get closure and move on with their lives. There are many ways to do this; the first-generation, known as the “third degree” basically caused physical and emotional distress until the accused broke and admitted their guilt, likely in a desperate attempt to end the torturous abuse (Adler, 2016, p. 12).

The second generation, Reid, hinged on the idea that the accused was certainly guilty, and the only concern of the interrogator was to get the accused to admit it, whether the accused did so just to end the interrogation, or if they did not know exactly what is was they were confessing to, or if they actually were guilty and wanted to come clean (Garrett, 2010, p. 1066). The third generation, which this article will further refer to as the cognitive technique, which will be discussed in great detail later, is more or less concerned in making the accused a willing, freely talking individual; rather than point fingers and force an individual to confess to a predetermined guilt, it focuses on hearing the story from the side of the defender, in an attempt to better understand the motives for action.

It is shocking to read that almost every bit of research focused on decrying the Reid Technique refer to a “dark figure”, and that this figure makes it difficult to know the exact number of bad confessions, yet will still argue that as many as 60% of wrongful convictions (where the defendant is found guilty, even though they in truth did not commit the crime they were accused of) are a direct result of false confessions that are elicited from Reid-type interrogations (Thompson, 2010, p. 2). The shock, however, does not come from the alarmingly high number; it comes from the fact that West and Meterko (2016) reported 31% of wrongful

convictions result from the usage of Reid, while Stewart, Woody, and Pulos argued that as little as 4% could be the number of Reid failures (2016, p. 15). An examination of these articles showed that Thompson credited Reid as a failure any time the technique was used and the result was rendered inadmissible, without looking much farther into other possible causes for the inadmissibility. Stewart went a little further and stated that Reid failure was not the only possible cause for an inadmissible confession, but left it at that, relying heavily on the “dark figure”.

The purpose behind an interrogation is to gather information, likely from someone that will not want to give the information right away. Studies have shown almost exclusively that interrogators that use less-coercive and more “friendly” methods of “information gathering” questioning approaches have been more successful in gaining information relevant to the case (Duke, Wood, Bollin, Scullin, & LaBianca, 2018, p. 64), however, information concerning the breadth of these interrogations is scarce. Though the cases themselves, as well as the suspects, and even the interrogators, are typically unique in each one of these scenarios, a likely argument for the marked increase in success is due in no small part to the psychology used during the interrogation.

Continued studies in the realm of Rapport Scales for Investigative Interrogations and Interrogations, known as RS3i, continue to show, through several tests, that suspect in a controlled experiment value the concepts of attentiveness, trust/respect, expertise, cultural similarity, connected flow, and commitment to communication (Duke, Wood, Bollin, Scullin, & LaBianca, 2018, p. 68). Most of these concepts have no place in the Reid Technique, which spends most of its time creating a feeling of hopelessness by using negative manipulation strategies (Costanzo & Krauss, 2018, p. 43). As discussed earlier, the psychology behind such techniques is being blamed for damage to the eligibility of the work that goes into gaining a

confession. The type of science used to elicit a confession must be sound, as many defendants are convicted solely on their confessions (Costanzo & Krauss, 2018, p. 44). Because there are already distinctly different reports regarding the use and success of Reid and cognitive, and because so little information is presented that actually explains how those figures are reached, an understanding of the interrogation itself, as well as its methods, is warranted.

Interrogation-related regulatory decline is perhaps at the base of the psychology behind the interrogation. Self-regulation is the person’s ability to make rational decisions towards a desired end state, and interrogation, no matter the method, is designed to deplete this ability (Costanzo & Krauss, 2018, p. 46). Once this ability to answer questions solely in a way to self-serve, short sightedness sets in.

Psychology of the Interrogation

More psychological science has determined that human beings make goals that fall into long- and short-terms. When it comes to the interrogation room, this fact is well known. Upon entering the interrogation room, the suspect will typically be thinking in the long term, planning on the necessary items of information to withhold to stay out of prison or otherwise lead to a loss of personal freedom. The wise interrogator does not specifically focus on information gathering; instead, they look for opportunities to cause short-sightedness in the suspect; once they have incurred enough psychological manipulation (whether positive or negative), the subject will transfer to short-term goal setting, where they are more willing to say what they must to end the interrogation, many times appeasing the interrogator in the process (Costanzo & Krauss, 2018, p. 46). Again, this is not the solely the aim of the Reid Technique, as the cognitive technique also exists to elicit information from a source (Dando, Wilcock, & Milne, 2008, p. 63).

Arguments against Reid are not simply that they get confessions thrown out, but that the confessions elicited by Reid are more likely to be false (West & Meterko, 2016, p. 748). While thrown-out confessions are bad enough, false confessions are more irksome. These go to show that psychology has been used in such a nefarious way as to get someone who is innocent, to confess to a crime they did not commit. Not only is this going to cause all sorts of problems for the person that confesses; it will likely derail the investigation and could ultimately cause the person that is truly guilty to walk free, able to commit the crime again and again.

The Reid technique and its hardnosed assumption of guilt basically locks a person into four possible forms of false confession. Instrumental-coerced confessions occur when a person confesses to a crime they know they did not commit, usually in an attempt to end a long, arduous, and distressing interrogation (Costanzo & Krauss, 2018, p. 48). Another false confession occurs through internalized-coerced falsity, or when a person that knows their innocence is essentially made to feel guilty enough by the interrogator that they confess any way (Costanzo & Krauss, 2018, p. 48). The other two types of false confession come more voluntarily; these serve as a small step away from the presumption of guilt theme that encompasses Reid, but still comes from a place of psychological manipulation, which may attribute to the wildly different empirical findings, as some researchers likely still found the use of “Reid-like techniques” (French, 2019; Garrett, 2010; Slobogin, 2017; Wojciechowski, Grans, & Liden, 2018).

The instrumental-voluntary false confession is usually made by someone trying to protect someone else, while the internalized-voluntary false confession is a product of mental illness or other mental duress that essentially pulls a confession willingly out of someone that has no business confessing to a crime (Costanzo & Krauss, 2018, p. 49). While there are several

difficulties present in extracting a submission through covert and manipulative means, what lies at the very heart of the Reid technique could be considered the moral compass of the interrogators themselves (Gallini, 2010, p. 568).

Much effort has been spent looking into one of the truths about interrogators when they are trying to extract the truth from otherwise unscrupulous individuals: interrogators lie. Is this acceptable? While it is largely accepted in the United States for interrogators to falsely claim they have DNA evidence, or witness corroboration in an attempt to elicit a confession (Costanzo & Krauss, 2018, p. 51), other countries take a much stricter stance on this. England and Wales, for example, enacted the Police and Criminal Evidence (PACE) Act, which makes it illegal to trick suspects or lie about evidence (Costanzo & Krauss, 2018, p. 51). This is most likely not based on the ethical dilemma presented by lying, rather it is due to the effectiveness lying can have towards eliciting an inadmissible, or even worse false, confession. It must be noted, however, that the PACE Act has been unable to retain data regarding the instances of true confessions that are received during these truthful interrogations (Costanzo & Krauss, 2018, p. 51). However, back in the United States, no such law exists, and police investigators consider lying to be a powerful weapon in their arsenal (Costanzo & Krauss, 2018, p. 51).

Continuing the path of psychological issues regarding interrogation, the length of the interrogation plays a large part as well. Though there are no set-in-stone rules regarding the length of a typical and acceptable interrogation, the general accepted rule-of-thumb is that an effective interrogation should last no more than 1.5 to 2 hours (Costanzo & Krauss, 2018; Hazelwood & Burgess, 2009; Cleary, 2017). When it comes to interrogating a suspect, it is not as simple as asking questions until a confession is made. Instead, the interrogator must always keep in mind several factors that will ultimately shape the course and the intent of the interrogation.

All case data known and/or retrieved thus far, the “cast” of involved characters, questions already asked and answered, the contextual worth of those answers, legal considerations, plans for the interrogation, verbal and nonverbal characteristics, and finally, what questions to ask next (Hazelwood & Burgess, 2009, p. 124) are all variables that come into play as an interrogation unfolds. This can quickly promote an atmosphere of unending possibilities; should both the interrogator and the suspect have unending sources of energy; the interrogation could go on forever. Instead, one must consider the average level of complete attention the average person can spend on one (not to mention stressful) venture. There are already several arguments for limiting the amount of time that can be spent conducting a suspect interrogation, though no case law or standard has yet to be established (Costanzo & Krauss, 2018, p. 54).

Another psychologically significant factor is the psyche of the subject themselves. While it is easy to conjure up ideas about monstrous and terrible people committing heinous criminal acts against people unable to protect themselves, the reality of the matter is the suspect of crime is just as human as anyone else. If the ethical concerns behind the “third degree” and the allegedly antagonistic approach to Reid interrogating a suspect is not enough to cause an interrogator to seek a less combative approach, the idea exists that even suspects of such terrible crimes as rape and murder are likely in need of proper human contact.

Specifically regarding sex crimes and other major crimes and the major psychological impact these investigations can have on everyone involved, the abilities of the suspect interrogator are paramount to the success of the investigation, which ultimately can lead to closure and healing for the victims. It has been recognized that in such life-altering cases such as rape and sexual assault, the interrogator is literally required to gain the confidence of the suspect, so that they will eventually tell their side of the story (Carney, 2004, p. 29). This is especially

important, as with many crimes involving sexual assault or rape, the only existing evidence is that of the victim, or worse, that of a third party. Because of this, the interrogator fully understands the importance of disclosures from the suspect, and does so by essentially befriending the suspect to encourage them to tell their side of the story (Carney, 2004, p. 29). This comes at a great cost to the interrogator; as a sworn defender of public decency and law, they oftentimes must utilize a sympathetic approach, which offers understanding and compassion for the suspect’s dilemma (Carney, 2004, p. 29).

Psychological concerns that make up the interrogation room thus far have focused on mainly two things: the interrogator and the suspect. The understanding that lying or deceiving the suspect plays largely into the manipulative field of confession elicitation, and the realization that, simply put, everyone is human, places a great deal of pressure on the investigator. There are yet other psychological issues that must be taken into consideration when it comes to suspect interrogation and the proper handling of it.

The “vulnerable suspect” (Garrett, 2010, p. 1057) is a newer concept that completely shifts and legitimizes the use of newer and more respectful approaches to criminal interrogation. Still moving farther and yet farther away from the “typical” suspect of crime, a figure following the atavistic qualities made so popular by Lombroso so long ago, the suspects of crime are just as unique as the crimes and circumstances themselves. The large and the small, the alpha, beta, and omega, the man and the woman, the well-to-do and the waste-of-a-good-uniform have all been present at one time or another in the interrogation room.

Still paying attention to the psychological issues that come up during investigation, the vulnerable suspect must be discussed. The youth, the mentally impaired, and the legally ignorant person are all additional variables that could change the course and ultimately the outcome of the

interrogation. Many different types of interrogation would almost immediately be rendered unfair and inadmissible if used on these types of persons. For example, the idea of using the “third degree”, oftentimes incorporating the use of physical pain or visual torture on a suspect in order to elicit a confession, would be all the more repugnant if used on a child or someone with mental deficiencies. Similarly, resorting to what essentially is nothing more than trickery or deceit against the same people would likely not be supported either. Many different jurisdictions have realized the very real risks of deceiving and otherwise manipulating vulnerable suspects.

Due to the controversial and polarizing nature of the coerced confession, the inclusion of subject matter experts and their testimony has steadily gained in popularity (Costanzo & Krauss, 2018, p. 55). While the need for additional scientific research will always exist, there has been a consistently growing body of knowledge to rely on when it comes to confessions that are received by questionable means (Costanzo & Krauss, 2018, p. 55). It is generally accepted in the United States for interrogators to deceive their suspects (citing evidence or corroboration that may not even exist), but the Supreme Court has acknowledged that these lies, if done too coercively, can skew the results of the interrogation (Hritz, 2017, p. 490). The subject matter experts are then called upon to determine just how far was far enough. These professionals have found (again, the only “statistic” for lack of a better term, has identified “more often” and an actual quantity is unavailable or unknown) that coercion and human behavior have since been either discredited or significantly undermined when use of the Reid Technique was employed (French, 2019, p. 1044).

It would seem there is a growing trend in subject matter experts deeming the use of techniques found in a Reid style interrogation to be questionable and detrimental to the concept of due process, yet still consistently refer to the “dark figure” and starkly differing results. It

seems as if massive amounts of confirmation bias have resulted in reports that hint Reid *may* be the problem but have so far been unsuccessful in identifying if Reid is the problem.

Much effort has gone towards identifying the psychological implications to be considered when deciding how to properly interrogate a suspect. As stated, the damage that can be done by an improperly handled interrogation can not only lose a case, but also cause a string of after-effects that can hurt many people. To show the need for a properly handled interrogation, research into the damages caused by bad interrogations should be discussed.

False Confessions

The idea that someone can essentially tell on themselves, even when they did not actually commit the crime is an unsettling one. Surely there must be powerful forces at work to compel someone to claim they committed a crime, especially one they are not guilty of. While this section explains the reality of false confessions, it must be noted that the current argument is that the Reid and other similar techniques are the source of false confessions, as the information pointed out above: many false confessions are gained as a result of this method (Thompson, 2010, p. 2), however little work has been done to identify if the cognitive technique has been any more or less successful or if Reid was the sole source of failure.

There has already been much work done towards identifying the prevalence of false confessions. The findings for the most part indicate the large prevalence of found false confessions are likely just a small percentage of the false confessions that have actually occurred, most of which remain uncovered (Cassell, 1998, p. 506). These numbers become increasingly hard to identify due to the sheer number of cases and the many variables that take place within. For example, work done by Richard Leo and Richard Ofshe (Leo & Ofshe, 1998, p. 451), found 29 cases of wrongful convictions stemming from false confessions in homicide cases between

the years of 1973 and 1996. While 29 wrongful convictions solely from homicide cases seems like many, there were approximately 368,000 homicide cases in the country during that span of time (Cassell, 1998, p. 506). Again, the problem of just how many false confessions have occurred, let alone how many have occurred due to Reid Technique-styled interrogations, remains.

There have been many researchers in times past that have suggested interrogation reform, but most seemed based on simply the theory that false confessions happen only due to distressing interrogation tactics. After all, change is the most accepted after enough proof presents the necessary need for change. While the change from pre-*Miranda* to post-*Miranda* was driven by Constitutional violations, those that would suppress Reid are attempting so from collection of data. Therefore, quantification and results, otherwise known as hard evidence, are usually predictors of needed change. Unfortunately, in this criterion, interrogation reform carries with it a possibility of both lost confessions (events in which the reform enables one that is actually guilty of the crime to “escape” without confessing) and lost convictions (similar to lost confessions, this occurs when the guilty was put on trial, but was released because there was no confession). Due to the large number of unknowns, simply boiling down to the fact that it will never be estimable the frequency of false confessions, let alone those due to interrogation tactics (as opposed to misunderstandings and/or those that confess for other reasons) (Cassell, 1998, p. 500). However, there is still targeted literature in this respect that sheds a light on the problem, nonetheless.

While the actual number remains a “dark figure”, there have been several attempts to get information on the topic, some reaching on court case dispositions and others going in truly strange directions in the search for answers. One such direction included inmates’ own accounts

after the events of the crime for which they were found culpable to shed light on the topic. For example, among 2,190 inmates, residing in the states of California, Michigan, and Texas, all responding to the survey voluntarily, had an option to state whether they committed the crime they were incarcerated for. Not surprisingly, the numbers varied greatly from crime to crime, with about 5% of the inmates that were incarcerated for drug charges, all the way to those jailed for rape and other sexual crimes, where the number of those that stated they did not commit the crime for which they were imprisoned reached nearly 40%. It was maintained that the validity of this survey was at best questionable, but still showed, for the most part, that the internal controls placed within the survey, used to check the internal consistency and reliability of the survey answers, reportedly remained largely intact (Poveda, 2001, pp. 700-702). This contends that of the current ways to identify statistics regarding false confession, self-report remains an unhelpful measure. There are too many unknowns. There is too high a risk that many of the false confessors have not come forward, or that the validity of those that have confessed their innocence once imprisoned begs questions of integrity and honesty. An attempt at finding the probability for false confessions in controlled experiments was sure to follow.

Studies completed by Stewart, Woody, and Pulos came to wildly different conclusions about the prevalence of false confessions. Depending on the source and the search criteria, it was estimated that anywhere from 4% to 16% of wrongful convictions were the direct result of a full or partial false confession (2016, p. 12) through a meta-analysis of experimental laboratory simulations. However, given that the analysis was built on conjecture, and did not account for actual statistics of real cases, the number remained a “possibility” instead of an empirical finding (Stewart, Woody, & Pulos, 2016, p. 15). It would seem that even though there is no hard statistic for what causes false confessions, how many confessions are false, and how many of them are a

result of antagonistic interrogation tactics, the possibility that such a problem exists still warrants a test to see if reform may correct or at least improve this issue.

Following the literature review, it became clear that there were those that were opposed of the use of Reid, and those that supported it. Inversely, there were just as many proponents of the cognitive technique. It all depended on where the research fell in its bias. This prompted the need for a new study to be done. If researchers picked certain cases to highlight the possibility of Reid being responsible for a false confession, then it would be too easy to assert that Reid was the culprit. Likewise, these researchers then showcased significant events in which the cognitive technique was used to great effect. Because the researchers seemed to be picking and choosing which cases to scrutinize, and largely chose the cases that were sure to further their arguments, the data was skewed. Additionally, the “dark figure” continued to come up, resulting in wildly different findings. To get after the “dark figure”, a completely unbiased review of cases was necessary.

In order to better understand the correlation, if any exists, between the number of court cases that get thrown out and the methods of interrogation used, a search into court disposition databases and the reasoning for the decisions was completed.

Chapter Three: Methodology

A review of literature oftentimes presents all the information needed to conclude the way forward. However, in the example of interrogation reform, all the literature defines is a need to determine if reform is needed.

Case dispositions from 564 criminal cases from the state of New York were scrutinized for their decisions, and whether the disposition was a result of the interrogative process used during the investigation. This was not intended to be a “one size fits all” method, as the cases in

New York almost definitely do not match the cases in other states. It was a matter of convenience that of over 20 states, New York had the most robust and useful case disposition database available at the time of this writing.

The research conducted in this article was not entirely meant to get shed light on the “dark figure”, but instead to determine, without consistently referring to an unknown variable such as the “dark figure”, just how interconnected interrogation methods and case dispositions may be. The number of false confessions acquired when a technique would certainly be preferable, however would always present the “dark figure” risk. The problem with all the research in the literature section, in addition to its clear bias, is that it is attempting to solve a variable problem in a binary manner. The nature of law enforcement is one of people. Every single person is different. An investigator could use the same technique the same way every time to interrogate their suspects but could come to differing results every time. What these researchers have done is assert that the technique itself, either Reid or cognitive, is responsible for the case outcome. Since they have placed a binary decision on a case that could have innumerable variables, they have all come up with different statistics.

To suggest that Reid should be replaced based on West and Meterko’s 31%, Thompson’s 60%, or Stewart, Woody, and Pulos’ 4-16% is clearly making a decision based on error and possibly skewed data. Almost all these articles blamed inaccuracies and unknowns on the “dark figure”, which remains a large presence in the world of criminal justice. The “dark figure” identifies that even though “X” amount of people are knowingly involved in some form of criminal justice, there are still “Y” number of people that will never become involved. Statistics from instances of male-on-male sexual assault to numbers of self-reported drug use all suffer from that “dark figure”.

Criminal justice has always suffered from a binary Achilles' heel: either the crime was, or was not, committed. This remains almost impossible to quantify as the human element of crime lends almost infinite possibilities and scenarios; there is no such thing as the “cookie cutter criminal”. This is perhaps why the “dark figure” pervades the studies attempting interrogation reform. The wrongful conviction and the technique used to elicit a confession *could* be linked, but it is unknown. Further, even if they *are* linked, there still could be other factors that led to the case being disposed in favor of the defendant. Too many researchers have focused on times a wrongful confession occurred, and simply because Reid was used, it was coined as the causality for such an occurrence. Clearly, the “third degree” is no longer in use, and there is, as of now, only one other option: the cognitive technique. Therefore, if researchers find that Reid is too aggressive, they only have one possible recourse: cognitive.

Unfortunately, consistently referring to the “dark figure”, as so many of the above researchers have done, asserts that they are reaching a subjective conclusion. If reform is truly to take place, hard evidence showing the need for such change must be indisputable. This article is not weighing in favor of either the Reid or the cognitive technique but is simply trying to find a way to determine which is more appropriate in today's interrogation room.

Research up to this point seems biased and full of validity errors. It seems that just because the Reid Technique was used, and the case was thrown out, that Reid was the sole determinant in such a decision. It is thought processes like this that lead to knee-jerk policy changes and other reactions that negatively affect a police department's ability to accomplish its mission. Therefore, since the meta-analysis seems to fall short in the research aspect, and continually falls back on the “dark figure”, claiming that the number of wrongfully obtained confessions remains a subject of debate, this research will attempt to address that. Case

dispositions are widely available on the internet, and a quick check of the judge’s decisions regarding the suspect’s confession will be instrumental in identifying what types of confessions stand and which ones do not.

The intent of this research is not to directly affect policy change; likely the results will be used at best to inform policy makers should they be concerned if their current training trends and interrogation techniques work for their area. Since the “dark figure” pervades nearly every facet of research regarding interrogation and confession, all available dispositions, from all types of criminal cases, as well as all types of criminals, will be considered.

A survey of 564 cases was accomplished. The crimes fell under almost every category imaginable, from murder of an infant to smaller cases that nonetheless ended up in court and involved an interrogation during the stages of investigation. The defendant, in almost every single case, was not a person, but was the state of New York in one of its capacities (most cases simply stated “*vs. The State of New York*”, but several went a step farther to identify particular city or university jurisdictions. All cases examined took place, chronologically, between the years of 2000 all the way up to early 2020. Cases prior to 2000 were not examined because of the likelihood of greatly differing laws from over two decades ago.

Among the giant case disposition database for the state of New York, search terms such as “interview”, “interrogation”, “Reid”, and “cognitive” were used to create the examination pool. All cases were afforded a total of one point. This point was be used to place the case in to one of four categories: Reid supportive, Reid dismissive, cognitive supportive, and cognitive dismissive. The points were fractioned due to the number of different factors that weighed into the case disposition and tallied. For example, a case in which the judge determined the Reid confession to be the sole determinant in a wrongful confession would award one full point to

Reid dismissive, and a case in which the judge found three different things that resulted in a wrongful confession, with use of the Reid Technique being one of them, would award .33 points to Reid dismissive. The determination was that this, encompassing several cases throughout New York, would provide insight into the types of cases, if any, that still benefit from the use of Reid, all the way to the other end of the spectrum, where the cognitive interrogation should be considered the new generation and the way forward for suspect interrogations.

After such an exhaustive search, where so many cases dispositions were scrutinized, the findings do not necessarily do a whole lot to get after the “dark figure”. Instead, the results suggest that the interrogation, as long as it was lawful in nature, has very little to do with the disposition of the case.

Chapter Four: Results

After exhausting the details of nearly 600 cases over a span of 20 years, the results are comparable to a dart board. Data was everywhere. Searching through case dispositions was a difficult task, as in New York State alone, the case disposition database was unable to disclose just how many cases were present in the database. However, the database was clear on the idea that “the most routine matters” and cases for which the disposition was too short to warrant explanation were excluded from the database (NY Courts, 2020).

The 564 cases examined judicial dispositions of cases that were, almost entirely, against the state of New York. The defendants were accused of all kinds of crimes, from murder to moving violations. They held grievances against the state for improper procedures concerning the model of due process. Some argued that they were interrogated forcefully, and had food and water withheld from them, as in the case of *Riordan vs. New York* (2017). Others, though interrogated during the investigation, set most of their grievances upon other aspects of the

investigation. As an example, in the manslaughter and robbery case *Gathers vs. New York* (2017), almost all aspects of the case were deemed based on illegal findings early in the investigation, that led to other illegal findings (a la the Fruit of the Poisonous Tree Doctrine, where illegally retrieved evidence leads to other evidence is deemed illegal as well), however the interrogation itself, where the investigators used “coercive and harsh” tactics, was deemed as one of the only investigative practices that was not to be questioned, as it fell within the guidelines of allowable police tactics.

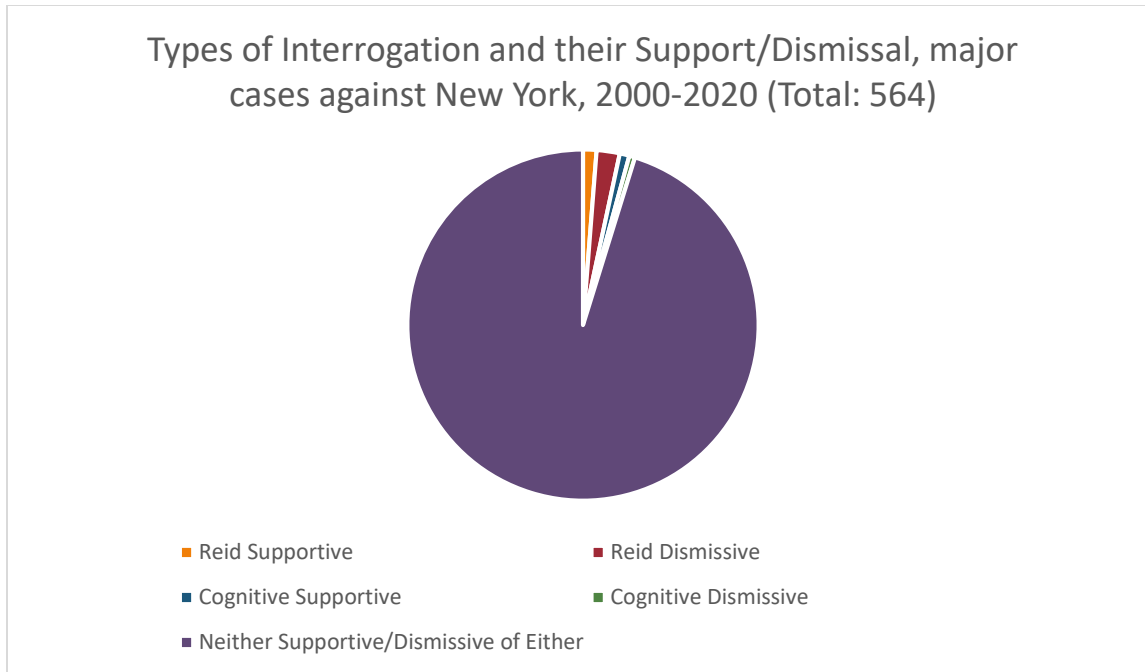
The results then, using the point system described above, remained very close to “zero points”, meaning that in nearly 600 cases in the state of New York, very few of them were disposed while taking the interrogation tactics into account. It would seem that the idea of the Reid and cognitive techniques are greatly understood in the police unit that is using them, but when it comes to court dispositions, the masses are generally unconcerned when it comes to the actual name of the techniques being used during interrogation. As an example, a search for “Reid” as well as “cognitive” was done.

The intent was to find cases that specifically called out either technique as a basis for success or failure. Sure enough, “Reid” and “cognitive” came up in nearly 150 of the almost 600 cases identified, however, *zero* of those cases used Reid or cognitive as examples of interrogation. Every case using “Reid” either hearkened to the case of *Reid vs. New York* (2018) or names of other personnel that were somehow involved in the case, either as investigating officers or personnel otherwise involved. “Cognitive”, in 100% of the cases in which it was mentioned, was used to describe someone (usually the person accused of committing a crime) of limited “cognitive” capacity or something of that ilk. While this does not go far towards proving if Reid or cognitive are preferable in certain situations, it speaks volumes about the use for both

techniques, and the arguments against them, being the basis for many unfounded volumes of biased research (more on that in the coming chapter).

Nonetheless, the original aim to assign points to Reid and to cognitive (or take away from them) produced some very interesting results. Looking specifically at New York case dispositions gave extremely little support for the cognitive type of interrogation, as the interrogations used were not detailed enough to determine their cognitive nature. Likewise, though 18 interrogations included words such as “antagonistic”, “coercive”, and/or even “bullying”, none of them were identified as using specifically “Reid” techniques of interrogating. The only cases that were thrown out as a result of the interrogation tactics were cases where the investigators withheld food and water, or where they physically restrained the subject in an uncomfortable manner, or where they allowed several hours without sleep to pass before beginning the interrogation, all of which are starkly not identified as techniques permissible through Reid.

The exhaustive search of 564 cases showed one glaring result: that while in very few cases the types of interrogation came into question and were ultimately supported, the overwhelming result of cases were disposed without questioning the type of interrogation used at all. Of the supportive and dismissive categories, “Reid Dismissive” was the largest, but only by an extremely small margin, and still only a tiny fraction of the overall case dispositions.

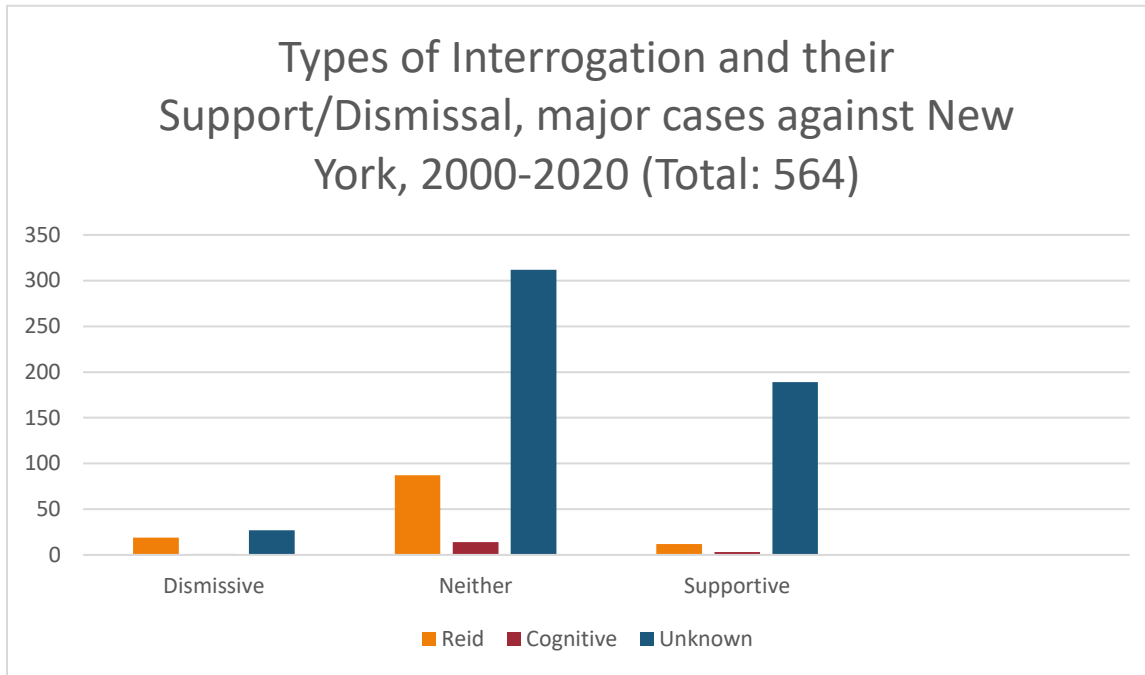


Once all the cases were considered and tallied, a surprising 95% of cases, regardless of the overall finding of the court (either in favor of the claimant or the defendant), even those that specifically mentioned “harsh” interrogation techniques played almost no part whatsoever in the final disposition. Of course, there were certainly cases where the interrogation technique was lauded or criticized, but the number of those cases was so small it denigrated the worth of the information.

With so many cases scrutinized, and the near entirety of them having nothing to do, at least as far as the information presented in the case disposition was concerned, with the use of interrogation techniques being supported or criticized, it was even more surprising that so many researchers claimed to find empirical statistics regarding the number of times Reid “lost” a case.

The problem with the results, as is clear in the diagram above, is that a 95% chance that the interrogation methods have little to do with the case outcome, suggest that Reid, cognitive, and everything in between, which so many researchers have decried as the reasons for false confessions do nothing to discern if any interrogative technique actually is responsible for case

outcomes. Therefore, the data was interpreted a different way, in order to discern if there was any correlation between case disposition and methods used, and if they would point in one direction or the other in favoring or dismissing any sort of interrogative technique.



Looking at the data this way provides useful insight in a few forms:

- Relatively little data exists concerning the use of the cognitive technique. This perhaps suggests that this technique still has not been in use long enough (or has not been decidedly referenced enough during dispositions) to provide real data.
- While there was at least one case in 564 in all nine categories, most of the cases were disposed without supporting *or* dismissing the use of the interrogative technique (the “neither” category).
- Most of the case dispositions, regardless of their level of support (or lack thereof) of the technique used, were nondescript in the technique that was used. In other words, the dispositions rarely identified the method of interrogation.

The chi square test was then used to determine if these numbers were or were not linked. If a result of .05 or less was discovered, then it would suggest that these numbers are dependent on one another, that the type of interrogation used did in fact have bearing on whether or not the case was dismissed for bad interrogative techniques. The total probability came out to $p = 1.341$, which strongly suggested that there was absolutely zero connection between the type of interrogation used and the case outcomes. Statistically speaking, a chi square test of independence was performed to examine the relation between interrogation techniques and the frequency of their levels of support (between supportive, dismissive, or neither). This showed that there was no significant association between the two, $X^2(4, N = 564) = 1.34, p > .05$. This suggests that while a single errant interview may overturn a case, there was no data to show that this was common, or even likely to occur.

Chapter Five: Discussion, Implications, Bias, Limitations, Recommendations, Conclusion

Discussion

As the findings identified, when it comes to searching a database that presents nothing but information, there is almost no discernible difference between the different types of criminal interrogation. Judges have far more to examine than the types of interrogation used, and unless the interrogation tactics result in cruel and unusual punishment or a blatant disregard for safety and needs (which was prevalent during the use of the “third degree” method), the types of interrogation used almost never came into question. Many of the Reid dismissive cases were cases that happened because of improperly handled cases (read: appeals) to past judgments, wherein the claimant postured they were unfairly treated during their interrogation.

Most of these cases were decided to be unfounded, that there was no proof of suspect mishandling or abuse, much less of it being attributed towards a technique over the other. In the

end, the careful examination of 564 cases proved to be of little to no use in identifying if there was a particular type of interrogation that was less useful than another, should both interrogation styles remain legally sound.

This article attempted to get after the “dark figure” that has been referred to by other researchers. The author would contend that they were successful; while perhaps not in an empirical “this many cases were lost because of poor use of the Reid Technique and this many cases were won because of the use of another technique”, but instead found information showing that in a professional sense, there is almost no distinction between interrogation type and case outcome; the correlation between the two simply do not exist.

With that in mind, there are still other theories presented by the findings. Most of the cases that involved purported “misuse” of an interrogation technique, were almost entirely dismissed by the judge, on the grounds that the claims were unsubstantiated. This suggests that, once again, the cases identified by Reid dismissive researchers are using very specific and egregious cases for their study, where the technique was obviously done incorrectly and involved undue levels of coercion and aggression, based entirely on the researcher’s subjective opinion of the subject.

Other information of note: there was no correlation between false confessions and the use of any interrogation technique available. Considering many past researchers, as outlined above, used their findings to represent the number of false confessions garnered by the Reid Technique, which were then blamed for the loss of the case, it seems folly to assume that Reid was the sole determinant in receiving a false confession just as much as it is to blame the technique itself for rendering a decision in favor of the suspect.

Looking again at the four main aspects of the Reid Technique, where A) the suspect loses control of the interrogation, B) they are isolated from many outside influences, C) the certainty of guilt the interrogator has of the suspect, and D) minimization of culpability tactics, the findings during the search of the case dispositions showed, when appropriate, that almost all interrogations, regardless of the model they may have followed, used all four of these tactics to an extent. Some went farther than others, while some only hinted at all four of those tactics, but they were the same from case to case, with the exception of gross misconduct exhibited by the interrogators, which was present in less than 2% of the cases reviewed.

Implications

The purpose of this article was to define if Reid needs to be replaced as the “go-to” method of interrogation with the cognitive technique, as so many researchers have concluded. From 4% of cases being ruined through the use of Reid all the way to 60% of cases being thrown out and Reid being singled out as the culprit, there was definitely a need to take an unbiased look into a selection of cases and see where the disposition came into play, and whether it identified Reid (or cognitive) or not. The implications of this study, then, are that when no biases are at play, and when the thoughts of the judge are all that are taken into account, the types of suspect interrogation used have very little, if any, weight in determination of the case. It should be mentioned that this singular source of information (the New York database) was not the only site that was used for this research; the New York database seemed to be the only one that took a factual approach instead of a biased one. There were sites that were used initially for the research portion of this argument that were decidedly taking one side over another. For example, there were several sites that heavily supported the use of Reid Techniques (most notably was the actual Reid Technique website, full of testimonials where the use of Reid was the only logical

way to interrogate, and included a long list of cases where Reid was used to great effect. There were just as many sites that decried the use of Reid, claiming its coercive and “bullying” nature to be the cause for the highest number of false confessions. The Marshall Project, which has always taken a firm stance against firm police action, comes to mind in the list of sites that were decidedly against the technique.

The sites that focused on the cognitive technique were no better. Proponents of the cognitive technique held the stance that it was the only way a suspect could be questioned intelligently and without coercion, but without any evidence to strengthen that claim. Proponents against the cognitive technique were largely unavailable. While there are no active arguments against the use of the cognitive technique, this can clearly not substitute the idea that cognitive is the only way to interrogate.

The implication of this study is perhaps the last thing a researcher wants to conclude if they are trying to bring about change, yet the results are significant nonetheless: there is almost no legal difference between Reid and cognitive. As long as the investigator stays within the lines defined by the U.S. Constitution, they are essentially free to interrogate the subject how they please, and the findings of the court, should they be against the investigator, it could be for any number of transgressions. Should it be against the accused, again it would be unfair to credit only the interrogation and its findings.

Personal Bias

It should be noted the author has a bias about this topic. As an active duty military policeman for nearly two decades, many of those years spent as an investigator of drug and sex crimes involving military members, the author has a very specific pool of experience to draw from that actually legitimizes the above findings. First trained as a sex crime investigator, the

author was well-versed in the use of the cognitive technique, and used it almost exclusively for victims, witness, and suspects of sexual crimes. When the author was given a chance to investigate drug crimes as well, this was the first time he was introduced to the concept of the Reid Technique. While studied and equally prepared to use the Reid Technique instead, the author found, time and time again, that using a more cognitive technique for all clients, regardless of their involvement in the crime under investigation, was substantially better for results. The Reid Technique was combative and seemed to almost prod a suspect to request a lawyer, thus ending the interrogation. It is with that bias in mind the author sought to find actual proof that the Reid Technique was, in one way or another, inferior to his chosen technique. However, research into the methods of previous researchers showed the same bias, and research done by combing through several hundreds of typed pages resulted in the ultimate conclusion that there is no clear benefit to using one technique over the other.

This is pleasing to find because the realm of law enforcement is rarely (if ever) binary. There is always more than one way to operate, and an empirical finding that claimed one sort of interrogation was the only type worth using would likely be faulty in its design.

Limitations

Unfortunately, this research was met with several limitations. Firstly, and already stated, most of the information already available in this polarized topic is already biased on the topic. There were several sites and sources visited, all of which seemed to choose which cases to showcase and which cases to omit. Because of this, most sources of information could not be used.

Another limitation of the study was the pool from which case dispositions were pulled. Though there are several jurisdictions throughout New York, and it could be argued that New

York would be a good place to start if someone wanted to research a large range of people, New York is not America as a whole; jurisdictions throughout the country operate differently, and there are likely many more cases that would have played out differently if they happened in a different state.

When it comes to the term “many more cases”, to say that this was only a small percentage of the cases available would be an understatement. As stated earlier, Leo and Ofshe researched 368,000 murder cases over the span of 20 years throughout the country; this study covered 564 criminal cases in as much time in only one state.

Further limitations are found in the case dispositions themselves; many of the cases identified were not offered points or fractions of points in any category because they failed to go into detail regarding the interrogation and the tactics used.

Perhaps the last limitation of the study is that it is almost impossible, like the claims of past researchers, to catch every case. The fact that this was only a small percentage of cases in one state aside, simply trying to define an interrogation as “Reid” or “cognitive” is a mistake in and of itself. A practiced interrogator will quickly switch between methods and come up with all new methods on the fly during an interrogation. The “dark figure” again pollutes the findings because there may be hundreds of cases where an investigator used a technique, but it was not brought up in discussion. Likewise, the interrogator may have used a hybrid of the two, therefore actually blaming one or the other would be a mistake.

Recommendations for Further Study

If researchers truly are determined to find out the usefulness of each technique, they need to monitor law enforcement interrogations as they happen. The scores of data that already exist are either biased or geared toward offering information largely unconcerned with the type of

interrogation used. Work has already been started in this area as a means to train young inexperienced police officers, tasking them with defining which interrogation tactics they prefer or distrust while interrogating actors in controlled settings (Dando, Wilcock, & Milne, 2008, p. 62). This seems to be a good start. After all, police policy affects the everyday actions of the police officers the policymakers have jurisdiction over, so perhaps with the information presented here, police departments can avoid the risk of cornering their younger and inexperienced officers into one and only one sort of interrogation.

If researchers truly intend to continue getting at the “dark figure”, and use that information to identify what sort of significant impact, if any, the type of interrogation used has on the outcome of a case, then they must start fresh. Interrogators must identify which tactic they intend to use, and the results of the interrogation must be recorded. Once that happens and the investigation is complete, the case must be followed to its final disposition, and it must be determined whether the type of interrogation used influenced the outcome. This is not only a mouthful of a to-do list; this is almost improbably difficult. Researchers up to this point have made Reid the target of their efforts, calling for its dismissal and a new type of interrogation to replace it. Their information is based on “statistics with unknown variables” (Gallini, 2010, p. 566) and is almost impossible to quantify; future researchers will want to focus on particular types of crimes in particular jurisdictions.

With that said, the usefulness of Reid over cognitive, or vice versa, is to be calculated inter-jurisdictionally, with police departments throughout the country figuring out when to use the aggressive techniques of Reid or the more relaxed and drawn-out methods of cognitive. In other words, cops must be trained to use both, interchangeably, switching from one to another

when needed, a skill that comes with experience. Any jurisdiction that disables the use of a Constitutionally-sound method is going to lose out on a powerful tool in the fight against crime.

Conclusion

Researchers have decried the use of the Reid Technique, claiming that it infringes upon the rights of the accused. It coerces them to tell of their guilt in a crime, and it does so in an aggressive and combative way. Though it was used to replace the so-called “third degree” method that was prevalent in the pre-*Miranda* 1950s as a means to an end without violence or threat, the method was, and is today, seen by many researchers as just another form of violence, if only on the suspect’s psyche. Researchers are calling for a new methods with many names and models, but all of which are designed to just “shut up and let the suspect talk freely” (Cassell, 1998, p. 555).

With no clear formula for identifying whether the Reid Technique, which is known for its “guilt presumptive” methods and somewhat antagonistic approach, researchers made the correlation between cases being thrown out of court and the Reid interrogation technique being used, without first finding a clear connection between the two. Once they decided the technique needed to be replaced, they fell back on the type of interrogation technique that indeed focuses on letting the suspect talk and tell their side of the story, introducing the theory of cognitive load and the idea that if they are left talking long enough, their story, if untruthful, will be so easy to pick apart that they will eventually talk themselves into an inescapable corner, and confess. This would present a similar outcome to successful use of the Reid Technique, however the path taken to get there would be less coercive in nature. While this is a sound theory, researchers consistently referred to the “dark figure” in terms of defining how many times Reid was used incorrectly.

Articles that provided a definitive percentage of what this article defined as “Reid dismissive” cases were the same articles that referred to this great unknown number that would make the actual true percentage of Reid dismissive cases unknown. Therefore, an unbiased analysis to determine if their work was sound was needed. Nearly 600 cases from New York were analyzed, looking for keywords that would include information about the types of interrogation used.

While the author provided four different categories for each case to fall into (Reid dismissive, Reid supportive, cognitive dismissive, cognitive supported), the analysis of these cases and their dispositions created the need for a fifth category: none of the above. This category stood for approximately 95% of all cases analyzed. This is not a replacement for the “dark figure” as such; the limitations of the study provided that although 95% of the case dispositions gave no information pertaining to the interrogation type used, the distinct possibility remains that they were simply not reported during the disposition. This, however, creates a whole new type of conclusion to the Reid vs. cognitive argument: there is no need to attack either of them, as both are considered constitutionally sound and usable in court. There will always be the outliers of course; there will be the times police investigators push a little too hard and wrongfully coerce a suspect into self-incrimination, but there will also be times an investigator sticks to the cognitive method and is led down the proverbial “rabbit hole” and emerge from the interrogation with no information of value.

If particular jurisdictions want to use the most efficient and effective model for interrogation, they must not be cornered by statistics that claim all sorts of different numbers and outcomes; they must instead draw on the experience of their successful officers, and teach the younger, inexperienced ones how fluid a suspect interrogation can really be. Drawing again from

personal experience, pushing oneself to use one and only one sort of interrogation model is risky and tiresome. In fact, much success has been seen drifting in between the two interrogation types in response to the suspect’s demeanor and actions (Dando, Wilcock, & Milne, 2008, p. 66).

This has been another case where people, regardless of their intentions to change police department policy for the better, were trying to remove a valuable tool from a police officer’s arsenal. Truth of the matter is, the police make a career out of dealing with people that very well make lifestyles out of committing crime; while it is important to be constitutionally mindful when dealing with these people, police professionals know that sometimes they will have to be the “bad cop” during interrogations, and will inevitably make the suspect uncomfortable.

In summary, the “dark figure” will always exist if researchers try to pin a single case failure on a single source. It has been argued that the Reid Technique is responsible for false confessions. While this is hard to dismiss as fact, there is no empirical evidence that shows the Reid Technique, or any other technique for that matter, is correlated with cases being thrown out. With that in mind, law enforcement professionals must continue to interrogate their suspects in ways that are not only constitutionally protected but fit the dynamics of the case as well. Until there is concrete evidence that Reid or any other interrogation model is losing more cases than it is winning, and that it is not simply a smaller part of a bigger picture, until researchers can show that this interrogation was the sole source of a suspect’s rights being compromised, police officers around the country are encouraged to interrogate in the ways they are comfortable, and to continue finding ways to innovate in the interrogation room. They must not limit themselves to one type of interrogation or another and should instead focus on pressing the suspect when they need to be pressed, and just listening to them when they are ready to talk.

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