



# Interrogation

## ▶ ▶ STUDENT LEARNING OUTCOMES

*Upon completion of this chapter students will demonstrate an understanding of:*

- The Supreme Court's holding in *Miranda v Arizona*
- The circumstances that give rise to Miranda warnings
- How to conduct a successful interrogation
- How to record the confession

One of the most effective trial exhibits that the prosecution can present to a jury is a confession. The impact of this type of evidence is one of the reasons that the U.S. Supreme Court promulgated guidelines for law enforcement agents eliciting confessions. Confessions are obtained through **interrogations**, the most daunting type of interview that an investigator can conduct. An interrogation is comparable to a chess match, in which a number of standard moves may be used to initiate contact. But at some point during every interrogation, standard moves cease to be available and spontaneity must take over. This is when a criminal investigator demonstrates his or her real skill as an interrogator. The best-planned interrogations, like the best-planned trials, often go awry. It is when an interrogation does go awry that a novice interrogator will undergo baptism by fire and be reborn, it is hoped, as a better practitioner of the art of interrogating offenders.

Preplanned opening moves may serve well with new offenders or in establishing rapport with career criminals, but the preparation for the interrogation is what carries an investigator beyond the opening game. An investigator's familiarity with the crime, the modus operandi of the crime, the suspect, the evidence to date, and the crime scene determines whether he or she can make it to the end game when playing against a seasoned, hostile, or psychopathic offender. Seasoned offenders and psychopaths often enjoy doing battle with police, whom they believe to be intellectually inferior. Too often, the interrogator's lack of preparation proves them correct (Gilbert, 1998).

Interrogations usually take place at the police station, in a sparsely furnished room with no windows or distractions. This spartan environment is designed to disarm the suspect and place him or her at a disadvantage. Separation from the things he or she is familiar with can be traumatic for the uninitiated. For the experienced offender, it is just one more in a long series of places he or she would rather not be.

Interrogative technique is unique to the interrogator. Successful interrogators, however, tend to:

- Show respect for the suspect's constitutional rights
- Show respect for the dignity of the worst among us
- Possess an understanding of human and conversational dynamics
- Maintain control over passions and prejudice
- Exhibit confidence and professionalism
- Exhibit self-respect as well as respect for the law and the criminal justice system

The interrogation environment created by police is inherently intimidating. The Supreme Court has been concerned with the intimidating aspects of interrogation in determining whether confessions obtained by investigators are voluntary. Two cases demonstrate the Court's concern and establish guidelines for ensuring that statements obtained from suspects are voluntary and not a product of coercion, whether explicit or implicit: *Escobedo v. Illinois* (1964) and *Miranda v. Arizona* (1966).

The *Escobedo* case raised two questions that the Court ultimately would address in its *Miranda* decision:

1. Do the rights recognized by the Court apply only to serious offenses for which the suspect is in custody and requests the services of an attorney?
2. At what point does an investigation begin to focus on one person?

The two elements giving rise to the need for Miranda warnings are *custody* and *interrogation*. The absence of either removes the need to provide such warnings. There are a number of cases of which every investigator should be aware. These cases, briefly described here, define the boundaries of interrogation and the types of situations in which Miranda warnings are not required.

- *New York v. Quarles*, 467 U.S. 649 (1987). Public safety concerns exempt police from having to provide Miranda warnings. A response to an inquiry about the location of an abandoned weapon may be incriminatory, but it also serves the

## CASE IN POINT

### *Escobedo v. Illinois*, 1964

*Escobedo v. Illinois* centered on the following question: When does an interview become an interrogation? Escobedo was wanted for murder and was arrested and interrogated. After his arrest, police told him that someone had witnessed the murder and had identified him as the perpetrator. Escobedo refused to admit the offense and instead stated that he wished to speak with his lawyer. Escobedo's lawyer arrived at the police station and requested an opportunity to speak with his client. He was not allowed access to his client. During the course of various station-house interrogations, Escobedo repeatedly requested to speak with his lawyer and finally admitted to some of the facts of the murder and incriminated himself. He was charged with and convicted of murder.

The Supreme Court held that when an interview is no longer one of general inquiry about a crime but begins to focus on one person who has been taken into police custody, that interview has become an interrogation, and the Sixth Amendment right to counsel is in effect. A failure to warn the suspect at this stage of the criminal justice process that he or she has the right to remain silent and the right to the services of an attorney is constitutionally impermissible, and any information obtained may not be used against the suspect in a court of law.

**CASE IN POINT*****Miranda v. Arizona, 1966***

*Miranda v. Arizona* centered on the following question: What must police tell a person they intend to interrogate? Charged with rape and kidnapping, Miranda was arrested, taken to the police station, and questioned. The interrogation extended over a two-hour period, at the end of which Miranda signed a written confession. He was convicted of rape and kidnapping. The Supreme Court concluded that, whoever the suspect and whatever that suspect's sophistication, it is necessary to provide the suspect a warning as a counterweight to the intimidating characteristics of a hostile environment. The warning must be sufficient to ensure that any statements provided by the suspect are voluntary and not the product of an overborne will.

The custodial interrogation of a suspect has inherent intimidating characteristics that only a constitutional warning can obviate. Any warning promulgated by the police must minimally apprise the suspect that

- He or she has the right to remain silent.
- Any and all statements made by the suspect can and will be used against him or her in a court of law.
- He or she has the right to the services of an attorney during questioning.
- He or she has the right to an appointed counsel if unable to afford counsel.

The Court went on to define what it meant by "custodial interrogation," which applies to those situations in which a suspect is entitled to *Miranda* warnings: "We mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."

public interest because it pertains to safety; therefore, it does not raise the need for *Miranda* warnings.

- *McNeil v. Wisconsin*, 501 U.S. 171 (1990). A suspect's invocation of the Fifth Amendment right to remain silent with regard to a particular offense does not constitute an invocation for other offenses for which the suspect has not yet been charged. The invocation of the Fifth Amendment right to remain silent prohibits police from inquiring into any aspects of the offense in question, but they may initiate further interrogation about unrelated offenses until the right to remain silent is again invoked. The invocation of the Fifth Amendment right against self-incrimination is specific to an offense.
- *Texas v. Cobb*, 532 U.S. 162 (2001). A suspect's invocation of the Sixth Amendment right to counsel with regard to a particular offense does not constitute an invocation for other offenses for which the suspect has not yet been charged. The invocation of the Sixth Amendment right to counsel prohibits police from inquiring into any aspects of the offense in question, but they may initiate further interrogation about unrelated offenses until the right to counsel is again invoked. The invocation applies to the offense in question and any factually related offenses.
- *Oregon v. Elstad*, 470 U.S. 298 (1985). *Miranda* warnings may "cure" a previously voluntarily provided unwarned confession if the warnings are provided prior to the elicitation of a subsequent statement.
- *Connecticut v. Barrett*, 479 U.S. 523 (1987). A suspect who has refused to give a written confession may still be urged to provide an oral confession as long as he or she has not invoked the right to remain silent.

- *Duckworth v. Eagan*, 492 U.S. 195 (1989). The Miranda warnings need not be given exactly as suggested by the Supreme Court or as written in police procedural manuals as long as they convey to the suspect his or her Fifth and Sixth Amendment rights.
- *Pennsylvania v. Muniz*, 496 U.S. 582 (1990). Because the Fifth Amendment provides *testimonial* protection—that is, protections regarding a person’s testimony—behavior and communications designed to gather nonevidentiary information are not covered. DWI roadblocks typically involve routine questioning of a stopped motorist. The questions may elicit responses that eventually prove incriminating, but they were designed to gather routine information. Answering such questions is not considered to be self-incriminatory and therefore is not protected by the Constitution. Should videotape recordings of responses to these routine questions be made, they too are constitutionally permissible.
- *Davis v. United States*, 114 S.Ct. 2350 (1994). After a suspect voluntarily waives his or her rights as described in Miranda, investigators may continue the interrogation until the accused affirmatively asserts his or her rights.
- *Brewer v. Williams*, 430 U.S. 387 (1977). Interrogations may be direct or indirect, explicit or implicit. An investigator cannot attempt to accomplish indirectly what he or she cannot accomplish directly. In *Brewer*, a conversation between officers in a police vehicle was intended to and did elicit an incriminating statement from the suspect in the back seat. The Court held that the statement was the functional equivalent of a confession because of the officers’ knowledge of the suspect’s sensitivity toward religious issues; therefore the subject’s statement was inadmissible.
- *Arizona v. Mauro*, 481 U.S. (1987). Recorded self-incriminatory conversations between two persons, one of whom gives consent for the recording, do not rise to the level of an interrogation and do not require Miranda warnings.

It is not unusual for the defense attorney, during trial, to request the testifying officer to recite the Miranda warnings to the jury just as they were provided to the defendant. The best practice is to read the warnings from a card. The defense attorney may ask whether the reason it is necessary to read them is because of the officer’s inability to recall them, or the attorney may request to see the card (which he or she is entitled to do) and then ask the witness to recite the warnings. The reason for reading the warnings is simply to ensure that no misunderstanding occurs as the result of a possible misstatement of the warnings. In response to the request to recite the warnings without benefit of the card, the witness should state that it would be unprofessional, in that a recitation from memory may result in a misstatement of the warnings.

To see the problem, consider the following version of the warnings:

.....  
 You have the right to remain silent. Anything you say may be held against you in a court of law. You have the right to the services of an attorney. If you cannot afford one, one will be provided for you. Do you understand these warnings as I have explained them to you?  
 .....

If you recognized that the *may* in the second sentence could be problematic, you have a lawyer’s penchant for verbal exactitude. The word *may* suggests an alternative and constitutes a hint of impermissible coercion through unauthorized bargaining. The

## OFFICER'S NOTEBOOK

### Interrogation Tips

- Pick the time—to suit the investigator.
- Pick the place—to isolate the person being interrogated.
- Provide *Miranda* warnings, even if they have been provided in the past.
- Maintain eye contact. The eyes are the windows to the soul, and penetrating eye contact is disconcerting to the guilty.
- Record the interrogation, including the *Miranda* warnings.
- Transcribe the interrogation and have the person interrogated sign the transcription, making any corrections he or she feels necessary.
- Treat the person being interrogated with respect and dignity.
- Be patient.
- Be professional.
- Be honest.
- Do not play games.
- Do not deprive the person being interrogated of sleep, food, cigarettes, or use of toilet facilities.
- Do not say or do anything you would not want a jury to hear.

defense would make the most of it by intimating that if this error were made, many other serious errors might have been made as well. It is prudent to read *Miranda* warnings both on the street and in the courtroom. Those who do read the warnings will not risk falling victim to a skillful cross-examiner.

## ■ Successful Interrogations

A **successful interrogation** results in a guilty criminal suspect's making a confession or admitting participation in an illegal activity. Often, guilty suspects leave the interrogation room without making an admission. Interrogations can fail for many reasons. Some are foreseeable. Once investigators have identified these factors, they can consider and act upon them to increase the probability of successful interrogations. Certain components are crucial to every successful interrogation. These major components are:

- Preparing for the interrogation
- Distinguishing between interrogations and interviews
- Developing persuasive themes and arguments
- Establishing a set plan
- Building a good relationship with the interrogation subject
- Allowing enough time for the interrogation

### Preparing for the Interrogation

**Preparation** is the most important factor in conducting a successful interrogation. Factors to consider when preparing interrogations include:

- The setting and environmental considerations
- Knowledge of case facts
- Familiarity with the subject's background
- The method used to document the confession

### Setting and Environmental Factors

Successful interrogations require that interrogators, not subjects, control not only the topics of discussion but also the physical environment. Officers should conduct interrogations only when they can ensure privacy and control of the environment. A good setting is a small, controlled, sound-insulated room void of distractions. A setting free from diversions forces the subject to respond only to the interrogator's inquiries. It also gives investigators a much better opportunity to observe the subject's verbal and nonverbal responses to the questions. The further the situation gets from a controlled setting, the higher the chance that the interrogation will fail. Often, only one good interrogation opportunity exists. Risking that opportunity in an unacceptable environment may be a poor investigative decision (Aubrey & Caputo, 1986).

### Knowledge of Case Facts

Understanding case facts remains critical to any interrogation, but some facts may prove more important than others. Knowing how a crime occurred can be an effective tool of persuasion. If investigators can tell a suspect how a crime was committed, the suspect may give the reasons for his or her involvement in the incident.

### Familiarity with the Subject's Background

Acquiring adequate background information about a suspect is another critical factor in achieving a successful outcome. A subject's feelings, attitudes, and personal values directly affect the nature and outcome of an interrogation. Individuals often make the choice to confess based on their emotions, and then defend their positions or choices with logic. When interrogators understand a suspect's goals, needs, and conflicts, they can use this information to persuade a suspect that confessing the truth is in the suspect's best interest (Decker & Denney, 1992).

### Documenting Confessions

Investigators should plan the details of **documenting the confession** before beginning the interrogation.

Best practices for interrogation is for all interactions with a suspect to be videotaped with a sound recording. Any allegations of coercion or over-reacting can best be rebutted by providing a complete video recording of what transpired before, during and after a suspect makes an incriminating statement. Additionally, a verbatim transcript of the entire interrogation should be made. Not a transcript of only the incriminating statement but of every word that transpired between interrogators and the suspect.

Once the entire process has been recorded and transcribed, the portion containing the incriminating statements can be cut from the transcript.

## OFFICER'S NOTEBOOK

### Elements of a Plan for Documenting a Confession

- Who will obtain the waiver of rights?
- Will the statement be a stenographic recording?
- Will the suspect write out the statement?
- Will the statement be recorded orally?
- Who will witness the statement?
- Will the statement be a narrative or in question-and-answer format?

All this is necessary in the event that the confessing suspect recounts the confessions and alleges coercion.

### **Distinguishing Between Interrogations and Interviews**

Investigators must understand the distinction between interviewing and interrogating suspects. Interviews are the pathways to interrogations: an interview should precede every interrogation. Through the interview, investigators learn about the suspect and his or her needs and fears. The information gathered during the interview will be used to fashion the arguments and themes used throughout the interrogation.

In interrogations, investigators lead, and subjects follow. Investigators do not seek information. They do not take notes. They only want to obtain truthful admissions or confessions. Continuing to obtain erroneous or fabricated facts while trying to secure truthful admissions causes investigators to lose the advantage in the interrogation process. Once investigators determine that interrogation is warranted, obtaining the truth from the subject becomes their only goal (Aubrey and Caputo, 1986).

#### **Developing Persuasive Themes and Arguments**

Lack of arguments and themes to persuade subjects to tell the truth stands as a major cause of interrogation failure. Experience provides investigators with an ever-increasing supply of arguments. Conducting more interrogations gives investigators additional ideas and a wider variety of themes to pursue.

Preparation allows investigators to plan their themes and arguments before interrogating subjects. Certain themes and arguments remain universally available, including the following:

- Minimizing the crime
- Blaming the victim
- Decreasing the shamefulness of the act
- Increasing guilt feelings
- Appealing to the subject's hope for a better outcome

Knowing what is important to a suspect gives interrogators plenty of topics and helps them avoid running out of subjects.

### **Building a Good Relationship**

Suspects may confess for no other reason than their respect for and trust in their interrogators. Investigators must build a good **relationship** with suspects. Anything that appears more important than the suspect or the relationship may prove detrimental to the interrogation process.

The perspectives, values, and goals of suspects and investigators diverge dramatically. It is necessary for an investigator to view an interrogation, a crime, and life experiences from the suspect's point of view. As investigators realize and understand these differences, interrogations become more personal and more effective.

### **Allowing Enough Time**

Successful interrogations require a certain amount of time to complete. That time is unique to each investigation and to each suspect. Suspects make critical life decisions based on their personal needs and wants and their perceived ideas about their situations



balanced against the themes, arguments, and facts presented by interrogators. Such a complicated process requires ample time to conclude successfully.

### ■ The Reid Technique

John E. Reid, who established a private polygraph firm in 1947 in Chicago, developed the **Reid technique**. The technique represents the cumulative experiences of dozens of associates who used the technique successfully to solve thousands of crimes since 1997. The training was first made available to the public in 1974, and more than 200,000 investigators have been trained in these techniques.

The Reid technique describes a three-part process for conducting a successful interrogation:

1. **Factual analysis:** This stage represents the collection and analysis of information relative to a crime scene, the victim, and possible suspects. Factual analysis helps determine the direction an investigation should take and offers insight regarding the possible offender.
2. **Interview of possible suspects:** This highly structured interview, referred to as a behavior analysis interview, is a nonaccusatory question-and-answer session intended to elicit information from the subject in a controlled environment. The clinical nature of the interview, including the asking of specific behavior-provoking questions, is designed to provide the investigator with verbal and nonverbal behavior symptoms that either support probable truthfulness or deception.
3. **Accusatory interrogation:** If the investigator believes that the subject has not told the truth during the nonaccusatory interview, the third part of the technique is employed, which is the accusatory interrogation.

The purpose of an interrogation is to elicit the truth. The persuasive efforts used during an interrogation must be balanced against the possibility that the suspect is innocent of the offense. The techniques must be effective enough to persuade a guilty suspect to tell the truth, but not so powerful as to cause an innocent person to confess.

All deception is motivated by the desire to avoid the consequences of telling the truth. These consequences may be social (going to prison, losing a job, paying a fine) or personal (feelings of embarrassment, shame, or humiliation). The investigator who tells a suspect, “You’re in a lot of trouble and face the rest of your life behind bars,” has made it psychologically very difficult for the suspect to tell the truth. The common technique, used by interrogators nationwide, of informing the suspect about the possible sentence facing him or her if convicted should be avoided.

The interrogator should also refrain from using hard **descriptives** such as *murder*, *rape*, and *theft* in favor of the less harsh concepts of *taking a human life*, *nonconsensual sex*, and *taking*, respectively. It is psychologically much easier to admit *causing a person’s death* than it is to admit to *murdering* that person. In addition, the investigator should portray an understanding and compassionate demeanor toward the suspect that allows the suspect to feel better about himself and less guilty about the crime he has committed. Another technique to reduce the perceived consequences of a crime involves more active persuasion. In this instance, the suspect is told that his or her crime could have been much worse and that it is fortunate that the suspect did not engage in the more serious activity.



Every person who has committed a crime will have justified that crime in some way. A crime against a person is often justified by blaming the victim. Crimes against property may be justified in a variety of ways. The employee who steals may justify the theft because she is underpaid and overworked; the auto thief blames society for not providing him a sufficient standard of living. Over time, criminals develop a victim's mentality. Criminals convince themselves and each other that they are the casualties of an unjust and unfair criminal justice system. Although the criminal may accept that what he did was wrong, the criminal believes he deserves special consideration because of his unique situation. An important part of the victim mentality is the urge to protect this victim image, to the extent of making a self-serving yet incriminating statement. The procedures employed in the Reid technique reinforce the guilty suspect's own justification for the crime and culminate by taking advantage of the suspect's victim mentality.

### **Steps of the Reid Technique**

John Reid divided interrogation into different steps because he observed that suspects often go through identifiable stages during a successful interrogation (for complete coverage of this method, see Inbau, Reid, et al., 2004). Suspects often begin by denying involvement in the offense. The guilty suspect eventually becomes quiet and withdrawn. At some point the guilty suspect starts to mentally debate whether or not to confess. It is at this stage that the investigator seeks the first admission of guilt. Once this admission is offered, the suspect is generally willing to disclose the details of his or her crime through standard questioning procedures.

#### **Step 1: Positive Confrontation**

In the first step, the investigator advises the suspect that the investigation clearly indicates that he or she is responsible for the commission of a crime. This, of course, may not be a true statement. However, to persuade a guilty suspect to tell the truth, the investigator must often exaggerate his or her confidence in the suspect's guilt and the evidence and information in the possession of the police.

Following this direct positive confrontation, the investigator makes a transition statement. An example of a transition statement is, "We have everything we need to tie you to this crime; now's the chance to tell your side of the story." The transition statement is psychologically important in that it offers a pretense for the interrogation other than to elicit a confession. The concept of understanding why the crime was committed is attractive to the guilty suspect, who believes outside circumstances were responsible for his committing the crime. Finally, the transition statement allows the investigator to become more understanding and compassionate, encouraging the suspect to respond.

#### **Step 2: Theme Development**

A **theme** is a monologue in which the investigator offers moral or psychological excuses for the suspect's criminal behavior. The theme is not designed to plant new ideas in the suspect's mind but merely to reinforce the justifications that already exist in the guilty suspect's mind.

Criminals mentally distort the motives and circumstances surrounding their crime. They do not accept the true reasons behind their behavior. They have found some justification that, in their mind, either excuses or excepts their behavior, often with a victim-mentality embellishment. It is the investigator's job to determine what this fallacious

**OFFICER'S NOTEBOOK****The Reid Technique**

- Step 1: *Positive confrontation*. The investigator advises the suspect that the investigation clearly indicates that he or she is responsible.
- Step 2: *Theme development*. The investigator offers moral or psychological excuses for the suspect's criminal behavior.
- Steps 3 and 4: *Talking through denial*. If a suspect is permitted to voice too many denials, he becomes committed to that position and no amount of persuasion will allow him to save enough face while telling the truth.
- Step 5: *Focusing attention*. Behavioral signs include dropped barriers (uncrossing arms or legs), a less tense posture, and inability to maintain eye contact.
- Step 6: *Responding to passivity of the interrogation*. The interrogator condenses theme concepts to one or two central elements.
- Step 7: *Alternative questioning*. The question posed is one that presents two choices to the suspect regarding the crime he or she has committed. The choices generally contrast a positive and a negative choice.

justification might be and turn it into a theme that will allow the suspect to buy in, reducing in his or her mind the criminal consequences of his or her behavior.

**Steps 3 and 4: Talking Through Denials**

Most guilty suspects will offer denials during theme development. An important principle with respect to denials is that the more often a suspect denies involvement in an offense, the more difficult it is for that person to tell the truth. If a suspect is permitted to voice too many denials, he becomes committed to that position and no amount of persuasion will allow him or her to save enough face while telling the truth. For this reason, the investigator will discourage the suspect from offering weak denials by simply maintaining a flow of words.

It is important to recognize that the interrogator does not prevent a suspect from offering a denial—he or she simply makes the suspect socially uncomfortable when denials are made. A guilty suspect's denials become weaker and less persistent as the investigator continues on with his or her theme. Once the suspect recognizes that his denials are not dissuading the investigator's confidence in his guilt, he often psychologically withdraws. His mind is focused on the consequences of his crime and he is content to allow the investigator to continue to talk and simply tunes him or her out.

**Step 5: Focusing Attention**

Once the suspect begins to withdraw, it is important for the interrogator to redefine the suspect's focus. That focal change should be directed toward the interrogator. The change in focus should be gradual, not abrupt. For the first time during the interrogation, the suspect may begin to think about telling the truth. The behavioral signs at this stage of an interrogation include dropped barriers (uncrossing arms or legs), a less tense posture, and an inability to maintain eye contact.

**Step 6: Responding to Passivity of the Interrogation**

The tempo of the interrogation slows. The investigator condenses theme concepts to one or two central elements, and moves into the next step of the process, which is designed to elicit the initial admission of guilt.

### Step 7: Alternative Questioning

This step is the point to which the interrogator has been heading since the beginning. There is but one time during the course of an interrogation where an **alternative question** will elicit a truthful response. It is the skillful investigator who recognizes that point in time. The question presents two choices to the suspect regarding the crime he or she has committed. The choices generally contrast a positive and a negative choice. Accepting either choice, of course, results in an admission of guilt. The psychology of the alternative question relies on the guilty suspect's victim mentality. An example of an alternative question in a homicide case might be, "Did you plan on doing this since the day you got married, or did it pretty much happen on the spur of the moment because of the fight you had?" or, "Did you pull the trigger or did your partner?"

In those instances in which a suspect accepts the positive side of the alternative question, the suspect's agreement with the investigator's question is an admission of guilt that must be preserved. The admission should lead to an oral confession, which in turn should result in a recorded or written confession. A **confession** is a statement acknowledging personal responsibility for a crime, including details only the guilty person would know.

## ■ Written Statements and Confessions

Written statements are permanent records of the pretrial testimony of accused persons. They may be used in court as evidence attesting to what was told to investigators; to refresh the memory of the people who made the statements; and to refresh the memory of investigators.

Miranda warnings and the signing of a **waiver** form stating that the suspect understands his or her rights pursuant to *Miranda v. Arizona* and voluntarily waives those rights in making any written statements must precede all written confessions. The confession is generally recorded using one of three accepted methods: narrative, question-and-answer, or a combination of narrative and question-and-answer.

The narrative method allows the interviewee or person executing the statement to record the information in his or her own words as desired. That is ideal if the person is articulate and does not compile a mass of irrelevant information. The narrative is used more often with a complainant or witness than with a victim or suspect.

In the question-and-answer method, the investigator can limit the information presented to that which is pertinent. Two disadvantages of using this method are (1) it is time-consuming for the investigator and (2) it may suppress some valuable information that might have been volunteered had the narrative method been used.

A combination of the preceding two methods normally produces the best results. The person being questioned is first allowed to tell his or her story, and then the investigator elicits specific information previously omitted. This method or the question-and-answer method is most often used when taking a statement from an accused suspect.

### Confession Law

**Confession law** is the area of law dealing with the proper technique for legally obtaining a confession, and the rights guaranteed a suspect when he or she is deciding whether to give a confession. Key developments in this area are summarized in **TABLE 8-1**.

**TABLE 8-1 Key Developments in Confession Law**

Case	Ruling
<i>Brown v. Mississippi</i> (1936)	Physical coercion violates the Fourth Amendment.
<i>Chambers v. Florida</i> (1940)	Psychological coercion violates the Fourth Amendment.
<i>Ashcraft v. Tennessee</i> (1944)	Psychological coercion is not admissible.
<i>Haley v. Ohio</i> (1948)	Relay teams of interrogators are inherently coercive.
<i>Payne v. Arkansas</i> (1958)	Holding a suspect incommunicado is coercive.
<i>Miranda v. Arizona</i> (1966)	Suspects must be read their rights before questioning.
<i>United States v. Ferrara</i> (1967)	Promises of light bail may be permissible.
<i>Frazier v. Cupp</i> (1969)	Police can say that an accomplice is cooperating.
<i>Harris v. New York</i> (1971)	Confession can be used in court to impeach testimony.
<i>United States v. Arcediano</i> (1974)	Promises of federal instead of state prison are approved.
<i>Beckwith v. United States</i> (1976)	Custody, not focus of suspicion, triggers <i>Miranda</i> .
<i>Brewer v. Williams</i> (1977)	Established functional equivalence test for custody.
<i>United States v. Fike</i> (1977)	No need to re- <i>Mirandize</i> a suspect unless day(s) have passed.
<i>North Carolina v. Butler</i> (1979)	Waiver of <i>Miranda</i> does not have to be written.
<i>California v. Braeske</i> (1980)	Requests to speak off the record must be honored.
<i>Rhode Island v. Innes</i> (1980)	No functional equivalent if police talk to each other.
<i>Edwards v. Arizona</i> (1981)	<i>Miranda</i> is waived if suspect initiates conversation.
<i>California v. Prysock</i> (1981)	<i>Miranda</i> warnings do not have to be read ritually.
<i>New York v. Quarles</i> (1987)	Established public safety exception.
<i>Duckworth v. Eagan</i> (1989)	<i>Miranda</i> warnings do not have to be read precisely.
<i>Illinois v. Perkins</i> (1990)	Police can pose as inmates to extract confessions.
<i>Minnick v. Mississippi</i> (1990)	Interrogation stops when the suspect requests an attorney.
<i>Pennsylvania v. Muniz</i> (1990)	<i>Miranda</i> warnings do not apply to drunk drivers.
<i>Arizona v. Fulminate</i> (1991)	Technically deficient confessions do not overturn convictions.
<i>Davis v. United States</i> (1994)	Suspect must make an unambiguous request for an attorney.

## Summary

Interrogations have always been a concern to the American people. Our collective historical experience with England during the colonial period as reflected in the Declaration of Independence and later in the Bill of Rights highlights the major grievances that the American colonists had with the English government. Prominently situated in the Fifth Amendment is the prohibition against self-incrimination. Although national emphasis has changed law enforcement focus to forensic evidence, the confession that is a product of understanding constitutional constraints is still the grist that makes the law enforcement mill turn.

In the next chapter we discuss firearm and cartridge class characteristics and the methods used by firearms examiners to identify and compare firearms, cartridges, cartridge cases and projectiles. The United States has an infatuation with the handgun

and it is employed commonly in armed robberies, aggravated assaults and homicides. Handling firearm evidence requires an appreciation for what forensic personnel are looking for and making sure that the handling and packaging assists in the preservation of any trace evidence.

## ■ Key Terms

**alternative question:** A two-pronged question that presents two choices (generally a positive and a negative choice) to the suspect regarding the crime he or she has committed; accepting either choice results in an admission of guilt

**confession:** A statement acknowledging personal responsibility for a crime, including details only the guilty person would know

**confession law:** Area of law dealing with the proper technique for legally obtaining a confession, and the rights guaranteed a suspect when he or she is deciding whether to give a confession

**descriptives:** Words that yield vivid mental images

**documenting the confession:** Recording a suspect's confession; the method used to do this should be planned

**interrogation:** The formal questioning of a suspect, conducted in a controlled environment and performed in an accusatory manner in order to learn the truth

**preparation:** The most important factor in conducting a successful interrogation; it involves considering the setting and environment, knowing the case facts, being familiar with the subject's background, and determining the method used to document the confession

**Reid technique:** Technique for conducting a successful interrogation that describes a three-part process to be used during the interrogation

**relationship:** Connection between the suspect and the interrogator during an interrogation; a good relationship must be built in an attempt to get a confession from a suspect

**successful interrogation:** Interrogation that results in a criminal suspect's making a confession or admitting participation in an illegal activity

**theme:** Monologue in which the investigator offers moral or psychological excuses for the suspect's criminal behavior

**waiver:** Conscious act of giving up rights or privileges

## ■ Review Questions

1. What role did the case of *Escobedo v. Illinois* play in the evolution of confession law?
2. When does an interview become an interrogation?
3. What role did *Miranda v. Arizona* play in the evolution of confession law?
4. Under what circumstances must a person be given the warnings pursuant to *Miranda v. Arizona*?
5. List the cases that contributed to the evolution of confession law. What was their contribution?
6. What is the three-part process used in the Reid technique?
7. List four themes that an interrogator may incorporate into an interrogation.

8. Describe the first step in the Reid technique.
9. Describe the second step in the Reid technique.
10. Describe the third and fourth steps in the Reid technique.
12. Describe the fifth step in the Reid technique.
13. Describe the sixth step in the Reid technique.
14. Describe the seventh step in the Reid technique.
15. Discuss the method of documenting a confession.
16. What is a waiver, and how is one obtained?

## ■ Bibliography

- Aubrey, A.S., & Caputo, R.R. (1986). *Criminal interrogation* (3rd ed.). Springfield: Charles C. Thomas.
- Decker, D., & Denney, J. (1992). *You've got to be believed to be heard*. New York: St. Martin's Press.
- Gilbert, J.N. (1998). *Criminal investigation* (4th ed.). Englewood Cliffs, NJ: Prentice Hall.
- Inbau, F.E., Reid, J.E., et al. (2004). *Criminal interrogation and confessions* (4th ed.). Sudbury, MA: Jones and Bartlett.

## ■ Key Legal Cases

- Arizona v. Mauro*, 481 U.S. (1987).
- Brewer v. Williams*, 430 U.S. 387 (1977).
- Connecticut v. Barrett*, 479 U.S. 523 (1987).
- Davis v. United States*, 114 S.Ct. 2350 (1994).
- Duckworth v. Eagan*, 492 U.S. 195 (1989).
- Escobedo v. Illinois*, 378 U.S. 478 (1964).
- McNeil v. Wisconsin*, 501 U.S. 171 (1990).
- Miranda v. Arizona*, 384 U.S. 436 (1966).
- New York v. Quarles*, 467 U.S. 649 (1987).
- Oregon v. Elstad*, 470 U.S. 298 (1985).
- Pennsylvania v. Muniz*, 496 U.S. 582 (1990).
- Texas v. Cobb*, 532 U.S. 162 (2001).