

History of Criminal Investigation

- Europe's industrial revolution caused a growth in cities and crime
- Thief catchers were hired
- In England, first police worked at night
- "Watch of London"
- Henry Fielding was appointed magistrate in Westminster and established the first "police force" Bow Street Runners
- First investigators worked for the courts
- Robert Peel created the Metropolitan Police
- William Herschel and Henry Faulds discovered that fingerprints were unique to an individual and unchangeable in 1870s
- Galton developed a system that can compare fingerprints in 1888
- Bertillon System (Alphonse Bertillon)- idea that the human body (skeletal shape, ear shape, eye color) remained the same after physical maturity
- Policing in the US was only in larger towns and cities
- Professional law enforcement was established in Boston in 1837, New York in 1844, and Philadelphia in 1854
- By 1870, all major cities had police departments
- Pinkerton National Detective Agency
- Founded by Allan Pinkerton
- Organized structure that was adopted by the FBI
- First to devise a rogues' gallery: a compilation of descriptions, methods of operation, hiding places, and names of associates by criminals
- Creation of the FBI
- 1924
- John Edgar Hoover was the first director
- 1948- American Academy of Forensic Sciences was added
- RAND conducted a nationwide study of criminal investigations by police agencies in major US cities
- Goal was to determine how investigations were organized and managed
- Departments started using specialized technicians to collect evidence
- Many patrol officers could do the same activity as detectives
- Many times, the goal was to close the case and not a successful prosecution
- National Institute of Justice
- Examined roles of an investigator:
 - Interviewing skills
 - Developing and managing of informants
 - Preparing cases for prosecution
 - Preparing witnesses

- Sequencing investigations
- Heuristics are rules of thumb that substitute simple questions for more complex ones
- Can lead to cognitive bias
- **Belief Perseverance**- giving most credence to that you already believe
- **Anchoring**- Strong influence of the starting point
- **Tunnel Vision**- Focus on a limited range of alternatives
- **Availability**- Make judgements based on what they remember readily recall
- Characteristics of an Investigator
- Motivation, initiative, teamwork, persistence, patience, and integrity

The Investigative Process

- First Impressions- how media depicts investigation
 - Brilliant Deduction
 - Skillful Questioning
 - Modern Technology
 - The Stalwart
 - Dumb Luck
 - In addition to these, there are always similar patterns
 - Always clear that a crime has occurred
 - If a suspect emerges the goal of the investigator is to get them
 - The issue if guilt is never in doubt
 - Other suspects are barely considered
 - The investigation is adversarial in nature
 - There is a trail of evidence and abundance of leads for the investigator to follow
 - That evidence and those leads lead inevitably to the identification of the guilty party
 - Good triumphs over evil and case closed
- The Reality
 - Way more complicated than that and not nearly so dramatic/exciting/mysterious/romantic
 - The public is not the only group that holds these notions however
 - The police do as well
 - Success is based on a systematic approach
 - That overall approach is the Investigative Process
 - Essential elements of the process include an understanding of the following:
 1. The investigators role in the justice system and ethical obligations
 2. The challenge
 3. The job of investigating
 4. Investigative focus
 5. The process
 6. The goal

- Each of these influences others
- Investigators are only one of many participants in the justice system
- Role is to find the truth
- Exculpatory and inculpatory evidence
- Absence of an “agenda”
- Ethical Obligations
- The decision to investigate and consequences
- Conduct during the investigation
- Dealing with suspects
- Dealing with cooperating persons
- Making undeliverable promises

The Challenge

- Seeking the truth and assembling a jigsaw puzzle
- In conducting an investigation many, or even most, of the pieces to the puzzle are missing
- Like a correctly-assembled puzzle, there is only one truth
- Ultimate challenge is to find the pieces and assemble them to correctly complete the picture (the truth)

The Job of Investigating

- Investigating **alleged** violations of the law
- Many complaints are not: Civil matters, no violation of law at all, fictitious incidents
- Collecting **facts** and **evidence related to the alleged violation**
- Understanding the law and rules of evidence (admissibility of evidence, difference between what is “known” and what can be “proven”)
- Presenting the case (a crucial job of investigators-too often overlooked)
- Relationships with attorneys (“the first thing we do, let’s kill all the lawyers”)
- Prosecutors (exercise the discretion and office priorities, investigations are moot without them, effectively telling the story)
- Defense attorneys (a necessary part of the process, not the enemy, making the investigator better in the long run)

Investigative Focus

- Ultimate goal of investigation is not arrest of suspect
- From outset of investigation actions should be judged from perspective of “how will this look in court?”
- Some practices, while legally permitted, may cross a line in terms of ethics and societal standards
- Criminal trial is ultimate evaluation of the quality of an investigation
- U.S. Constitution usually provides for only one opportunity to prove case

Chapter Nineteen

- Preparing for Trial
 - Preparation for trial begins when the case first gets initiated
 - Involve the prosecutor from the beginning if possible
- Benefits
 - Avoiding potential legal issues
 - Considering possible defenses
 - Objectivity
- **Factual** guilt vs. **Legal** guilt
 - Factual Guilt- Evidence that points toward the person doing it
 - Legal Guilt- Elements of the crime as to pin why they would have done the crime
- Officers should fully cooperate with prosecutors in trial preparation
 - Problems between officer and prosecutor should be resolved quickly so as to not impede the case
 - Best way to avoid those is regular contact **during** investigation
 - Officers may not like how the prosecutor decides to prosecute case or plea agreement offered
- Pretrial Conference
 - Should be held between the prosecutor and all the officers testifying in the case
 - Often difficult to schedule
 - Extremely important
- Officers should provide prosecutors with all information relevant to the case
 - Includes exculpatory evidence
 - Furnish all results of investigation, and especially anything you will be testifying about
- Jencks Act
 - Want to convict the guilty, not the innocent
 - Due diligence by the prosecutor
- Officers should know the basic rules of evidence admissibility
- Before court, officers would review all reports and documents relevant to the case
 - Transcripts of prior testimony
 - Testimony can take several forms
- Generally, any notes or reports an officer brings to the stand to assist in memory may be seen by the defense attorney and used in cross-examination
- Police should provide assistance to ensure that all physical evidence is available at the time of the trial
- Officers should provide prosecutors with assistance as needed in ensuring that witnesses will be present and ready to testify at trial
- No communication between the officer and the defense attorney should occur unless the prosecutor approves

Reviewing Evidence

- Chain of custody and evidence should all be accounted for
 - Marking exhibits and exhibit list
 - Who will maintain the evidence during court proceedings?
 - Once admitted into evidence the Court does

Going to Court

- Trial starts the moment you arrive in courthouse
- Testimony given by the investigator is crucial to the criminal story
 - Telling the story
 - Bloom and Associates research on jury behavior
- Good testimony can ease the job of the prosecutor and aid in a conviction
- Defense attorneys use tactics to attack an officer's credibility
- Stronger the case, the more this is true
 - Officers using notes on stand opens the defense attorney to those records and may be used to attack the credibility
 - Attempt to demonstrate the officer's bias or that they are lying
 - Racial bias, officer's reputation for truthfulness
 - "Why don't you like my client?"
- Jurors expect investigators to be professional because they are representing the government
- Jurors want to believe the police

The Preliminary Investigation

- Preliminary Investigation- initial inquiry by officers to establish facts and circumstances of a suspected crime and to preserve evidence
 - Securing the scene
 - Considering possible arrest of suspect
 - Locating and questioning witnesses and victims
 - Documenting the scene
 - Identify and collect evidence
- **Crime Scene**
 - Evidence may be found here, but crime was not necessarily committed here
 - Can be many crime scenes for one crime:
 - Primary
 - Secondary
 - Tertiary
- Crime scene evidence is dynamic
- Contamination of a crime scene, loss of evidence, and movement of physical evidence can all be damaging to a criminal case
- If evidence is not properly secured, wrongfully mixed with other evidence, or significantly altered it can be rendered inadmissible