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Fundamentals of Criminal Investigation

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Published by August Learning Solutions
Cleveland, OH

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ISBN-13: 978-1-941626-18-4

ISBN-10: 1-941626-18-1

Printed in the United States of America

19 18 17 16 15 5 4 3 2 1



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To my wife Laura, my daughter Keilani, and my son Andrew for their continued support with this project.

To Gary Guthrie for his support and advice through the writing and editing of this book.



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Preface

Criminal investigations have changed dramatically since I started in law enforcement in the late 70s. Law enforcement, whether in patrol or investigations, must think about so many different things, such as whether the quality of a fingerprint is good enough to be scanned into the computer or whether there is enough of a fluid sample for both the prosecution and defense—these considerations were unheard of years ago.

Looking at how and why something actually happened is important, but using facts to prove the actual event is the goal. This book was written for the beginning investigator to learn and use throughout their careers. An instructor in my police academy many years ago told me that a book is only as good as its content. His book is still being sold today, many years after his death.

The book discusses the history of criminal investigation, various types of investigations, and methods to conduct searches. It explores different kinds of investigations and crimes and problems associated with them, and it offers some tips to help investigators continue to learn and stay current in the field.

Note: The information contained in this book is knowledge that I have been able to gather and learn over my thirty-plus years in law enforcement and twenty-five years of teaching at the community college level. I am not an attorney, and the contents of this book should not be considered legal advice. If legal advice is needed, you should contact an attorney.



History and Methods of Criminal Investigation

Chapter Summary

This chapter covers the history of criminal investigation, various methods of investigation, goals of investigators, case breakdowns (major versus minor), and civil liability with investigators. It also discusses the outcomes of different types of criminal investigations.



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Chapter Learning Objectives

- Be able to discuss the basic history of investigation
- Be able to discuss types of investigations
- Be able to discuss methods and goals of investigations
- Be able to discuss civil liability

Chapter Terms

- Criminal investigation
- Criminalist
- Forensics



History of investigation



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FIGURE 1.1 Henry Fielding



Marie Gabrielle Coignet. Eugene-François Vidocq, c.1830-1840. Musée Carnavalet, Paris.

FIGURE 1.2 Eugene-François Vidocq

We start our conversation about the history of criminal investigation in England in the late 1200s, when the watchman style of policing was developed. This type of policing was good for reducing some types of crimes, such as violent crimes. The downside of this style of policing was that people had to pay the watchman to recover stolen items.

The first well-known criminal investigator from the 1700s was Henry Fielding; he founded England's first detective unit called the Bow Street Runners. They believed that if they could catch the criminals who committed the crimes, they could prevent others from attempting similar crimes in the future. This could be described as the first steps at what the modern police officer does while using the community-oriented policing model.

The first early police agency was named Scotland Yard (also called the metropolitan police of London). This agency was first established in the early 1800s. During this time period, Eugene-François Vidocq, a detective from France, was also active. He would go undercover and attempt to solve crimes for the Paris police, but his way of investigating things was different. Even though he was not a convicted criminal, he had shot and killed a person during a duel. One of the biggest problems with his investigations was that he would hire criminals. For example, if Vidocq caught a person stealing something from a business, he would let the suspect choose what was going to happen next. Vidocq would either take the person to prison or let them work for him as an informant. This is very similar to some of the current practices in law enforcement today.

Vidocq also tried to figure out how people could be identified even if they changed their appearances or moved to another area. Vidocq was a pioneer in the fingerprint world. He unfortunately could never find a way to roll prints before the ink dried. Vidocq tried a number of methods, but he died before he could perfect his study.

Vidocq also experimented with bloodstain analysis. Although primitive, his method was effective. He would put a chemical on a bloodstain and try to match it to that of the suspect. If the stain changed colors, Vidocq would confront the suspect and sometimes get a confession. This technique was later found to be more of an effective interviewing tactic than a science-based technique.

Later in that decade, the first detective unit was formed. Most people who are familiar with criminal investigations know the name Allan Pinkerton, but the first detective was the New Yorker Thomas Byrnes. Byrnes solved many important cases including a large bank heist and was later promoted to the chief of detectives in New York. He realized that criminals were committing crimes the same way on multiple occasions. Byrnes continued in the work on these types of investigations and became the father of the *modus operandi* (MO) technique of investigations.

Webster's dictionary describes *modus operandi* as "a particular way or method of doing something, especially one that is characteristic or well-established." This method is still being used today on a much wider scale and is the backbone for criminal analysts. The theory of working smarter and not harder was done in Byrnes's time.

Both Byrnes and Pinkerton are the most well known of the forefathers in the field and used investigative techniques instead of tricks to induce the suspect to confess.

In the mid-1900s, Pinkerton became the prominent name in criminal investigation. He was a Chicago policeman who understood the importance

of keeping records on people and places for future use. This was the beginning of the database theory for police. Pinkerton formed his own investigation agency, which was called the Pinkerton National Detective Agency. This name was unique since the word *detective* had only been added to the dictionary in 1843. The Pinkerton company logo was the unblinking eye, which meant that they were always watching out for their customers.

Pinkerton also helped the Federal Bureau of Investigation develop its national database. Pinkerton went on to be a very influential person in the labor organizations and unions. In basic terms, they hated him. His business cost the labor organizations and unions millions of dollars because of his investigations into how they were run.

Pinkerton also had another side to him. He loved to talk about his cases and did so through his writings and books. It has been said that he hired ghostwriters, despite the fact that all of his books had his name on them and were usually about his cases that he investigated.

Byrnes and Pinkerton were the starting blocks for the forensics in the United States. According to Webster's dictionary, **forensics** is defined as "relating to the use of scientific knowledge or methods in solving crimes." The person who is handling these types of forensic investigations in the lab is called a criminalist. A **criminalist** is a person with a background in science, typically one who has at least a baccalaureate degree in an area such as chemistry, biology, forensic science, or criminalistics. Many smaller departments will use a county laboratory or a regional laboratory to have these items processed.

Laws and ordinances

Each area of the federal, state, or county government has various types of laws or ordinances. To understand them, we must break them down in order of importance and severity.

First, we must understand that each county, state, or federal government has what are called statutes. These can be divided into criminal or civil statutes. On the federal side, the U.S. Code is an example of a statute. It covers all federal crimes that are prosecuted in federal courts. States and counties have similar codes describing similar crimes, but the sentences are enforced by the state or county.

One type of crime that a person could be charged with is a felony. It is generally a serious offense such as murder, robbery, or rape and carries a sentence of more than a year that usually will be served in a prison setting.

Some exceptions to this would be in California currently where they have what is called a local prison. Local prison is nothing more than a county jail housing the suspect for a crime that in years passed would have required prison. The felon who is in local prison has typically been convicted of a lower-type felony charge such as possession of illegal drugs and some types of property crimes.

Another type of crime is a misdemeanor. It is punishable by a fine or up to one year in jail. Most states and counties have similar statutes but different penalties for them.

The last type of crime is an infraction or local ordinance. They usually have monetary punishments unless they go unpaid. Further definitions can be found in most introductions to criminal justice textbooks and online.



FIGURE 1.3 Thomas Byrnes



FIGURE 1.4 Allan Pinkerton

Defenders and Offenders (1888). New York: D. Buchner & Company.

Brady's National Photographic Galleries. Library of Congress Prints and Photographs Division.

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Goals of investigations

The primary goal for any criminal investigation should be to find the truth of the matter. Comparing the facts of the case and the evidence more often than not uncovers what actually happened.

A criminal investigation includes the following method:

1. Determine whether a crime was actually committed and what type of crime it is it.
2. Obtain information and facts legally to identify the suspect or suspects.
3. Arrest the suspect.
4. Recover any property or evidence needed.
5. Take the case to the presiding agency (district attorney or attorney general) for prosecution.

Let's discuss these steps at length. The first is always the hardest.

Was there actually a crime committed? If so, what was it? For example, an officer may be called to a location and find only drops of blood. The officer needs to decide whether this is an actual crime scene or something else like an injured animal that walked through the area dripping blood.

If a crime has actually occurred, then an investigation begins. A patrol officer will interview the victim and witnesses to obtain their statements, process any physical evidence, and conduct a complete investigation. The process is the same for the investigator who is the initial responder. If, however, the investigator is assigned the case, he or she must continue from where the investigation left off.

At this point, the investigator must make a decision about the direction of the case. Is it time to make an arrest, or would it be better to develop more information, possibly from the suspect in a noncustodial interview? Whichever direction the investigation takes, the investigator needs to keep in mind that if the interview with a suspect is a custodial type of situation, the suspect should be given the Miranda admonishment. If an arrest is made, the clock will start. This means that the process involved in getting the suspect to court within the prescribed time will be running. Working within this time constraint is the hardest part of an investigator's job because it accelerates the way things get done.

Searches for property at various locations, search warrants, and other related investigation will be needed to finish the investigation and to collect additional facts and evidence for the case. It is always easier to obtain a search warrant to search a location and protect the evidence being sought. This process may be time consuming, but if is done correctly, it will produce useable evidence that will be admitted into court for your case.

The last process is presenting the case to the district attorney, attorney general, or U.S. attorney. The case should be packaged in a manner that makes sense to the person prosecuting it. The investigator should always be prepared to have more work assigned to the case. The investigation does not stop when it goes to the prosecutor's office. Additional interviews, more search warrants, and even more arrests are frequently necessary.

Patrol officer versus investigator

The patrol officer and the investigator have different responsibilities but the same goal. They must investigate criminal activity and protect the people they serve. Simply put, patrol officers determine if a crime was committed.

They must first render first aid if necessary to any one hurt and then preserve the crime scene for investigators. Next, they need to investigate the crime in the preliminary form and complete a report of the details of the crime.

The investigator takes on the next step in this process. The investigator must first review the case to determine which direction the investigation will go. The investigator also decides when any more arrests are made if the suspect is not already in custody. This brings up an important part of being an investigator. Many police departments require their detectives or investigators to conduct a follow-up on all patrol arrests to ensure that the case is presented to the prosecutor's office in a manner that is usable to prosecute.

In the criminal investigation process, both the patrol officer and the investigator must be open to new ideas, inquisitive enough to ask questions, and tenacious enough to find the truth. These traits are discussed in more detail in the next section. Both need to work together as a team. This is the first step of the team concept used in most investigations.



Traits of investigators

To be successful in their line of work, criminal investigators need to have several indispensable traits. Here are a few of the more important characteristics:

Good listener One of the most common problems with police officers, investigators, and private investigators is not being to listen to a person without interrupting them. Experience has showed me that waiting and being patient are rare qualities that help with investigations.

Psychologically prepared Being able to investigate the crime scene without becoming emotionally involved is important. Most of the time, criminal investigations are not very pleasant. Investigators must deal with things that happen to people and are usually very distressing. Investigators must be able to stay focused on the job at hand and push through it.

Intelligent Investigators must be both academically smart and “street smart.” Being academically intelligent is a huge plus in the criminal investigation world, but investigators must also be street smart to make a variety of decisions regarding their cases. Many good police officers try to be investigators but lack the street smarts to do a thorough job. Fortunately, the street-smart trait can be learned over time.

Physically prepared Many investigators, whether in the public or private sector, fail to work on physical conditioning. This will ultimately cause fatigue and health problems. Regularly walking or participating in another type of exercise is a benefit to all investigators and gives them time to reflect or clear their minds.

How the case works and civil liability

Cases should be considered in terms of a timeline of events that deal with the crime. Following is a list of events in a normal case for both a patrol officer and an investigator:

- Patrol officer

Arrive at the scene and preserve life

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Evaluate and protect the scene

Interview victims and witnesses

Process the scene (use criminalists if needed)

Look for suspects

Prepare a detailed report of the incident

- Investigator

Review reports and case information

Have evidence processed

Evaluate case for searches and search warrants

Arrest suspect if needed

Prepare case for submission

Assist the prosecutor with follow-up

Testify as a witness (if necessary)

Investigators who follow these steps will ensure that their cases will be issued and that they will have a working relationship with the prosecutor. This brings us to the topic that most people in the criminal justice field fear, being sued. Withholding evidence that shows something about the case is the primary reason investigators are sued. Many times this is done by accident when investigators forgot to have a test done or wrote something in their notes and later discovered that it was not completely explained in their reports. Statute 42 of U.S. Code 1983 deals with civil rights violations. Deliberately withholding evidence that would prove a person not guilty of a crime is a federal offense, and most states have statutes that make it a felony crime.

This is not a popular topic with investigators. It is very discouraging to work extensively on a case and then find out that the wrong suspect is in custody. Many times during my career, I investigated a case from the point of view of both the prosecution and the defense. This is what the trend should be in order to find the facts.

Chapter Questions

1. Describe how the history of investigation has helped influence new technology in law enforcement.
2. Compare and contrast a felony, a misdemeanor, and an ordinance type of crime.
3. Discuss some of the goals for investigation.
4. Describe some of the civil liabilities related to conducting a criminal investigation.
5. Discuss the following people: Eugene-François Vidocq, Thomas Byrnes, and Allan Pinkerton.

