THE CONFESSION INTERVIEW: ETHICAL, LEGAL, AND PSYCHOLOGICAL IMPLICATIONS FOR THE FORENSIC ACCOUNTANT

Police investigators are renowned for their investigative interviewing skills, many of which are obtained through a standardized model of interview training. Learn these critical interviewing skills and models while viewing compelling police interview footage as an actual case example of fundamentally sound interview techniques. Starting with a review of confession laws and the pitfalls that can arise if the forensic accountant does not have the requisite understanding of these laws, this session will discuss various interview models and their applicability to practitioners when dealing with confession interviews.

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Scott Porter has been a Chartered Accountant since 2002. Porter has done multiple presentations to forensic accountants across Canada and the United States on how to conduct effective interviews. In January 2012 Porter co-authored the article “Teaching Interviewing Techniques to Forensic Accountants is Critical,” which was published in the Journal of Forensic & Investigative Accounting. Porter is also a member of the journal’s Editorial Advisory Board. Porter has been a Senior Investigator of Professional Conduct at the ICAO for six years conducting numerous interviews with Chartered Accountants alleged to have committed professional misconduct, including fraud. Prior to that, Porter was a Manager with PricewaterhouseCoopers’ forensic accounting group and served at PwC for eight years.

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The date was February 7, 2010. It was an early Sunday afternoon. Colonel Russell Williams entered the interrogation room; a man normally above all reproach. After an intense few hours, Detective Jim Smyth elicited one of the most compelling murder confessions in Canadian history. How did Smyth do it?

Research Project for Emerging Issues/Advanced Topics Course
Diploma in Investigative and Forensic Accounting
University of Toronto
Prepared for: Len Brooks, B. Comm., MBA, FCA

Authored by: Scott Porter, CA
June 20, 2011
When I first set out to write this paper, the task seemed daunting. However, upon completion, I can safely say that this was the most professionally rewarding experience that I have ever been through. Accordingly, I would like to thank the DIFA program for presenting this challenge to me. In doing so, I would like to thank Debby Keown for always being available to provide materials to me throughout the program in general. Debby, you do a great job and I thank you for it. In addition, I would like to thank all of my previous course instructors for challenging me throughout this entire academic process. The DIFA program is an excellent learning experience.

I would like to thank the people that I interviewed for their insights and contributions to this paper. The professional credentials of the nine interviewees for this paper are listed in the next few pages. Each and every one of you provided me with tremendous perspective, whether directly quoted in this paper, or not. Interestingly, aside from Frank, I did not know any of you prior to me writing this paper. Therefore, I can’t emphasize how much I appreciate your willingness to meet with me and take the time out of your busy schedules to help me. I would especially like to thank Frank Wozniak for being my mentor. The time that you took to discuss this fascinating topic with me has taught me a tremendous amount and I hope that I can use your teachings in my professional work for years to come. A special thank you also goes out to both Kerry Watkins and Tina Fountain for responding to my emails throughout the entire process. I really appreciate the insight that you both provided.
I would like to thank my employer for supporting me throughout this program. In doing so, I would like to thank John, Paul (and Erin), and Karen for your critiques on certain aspects of my paper. I would also like to thank my friend Jennifer for the unique perspective that you brought to my paper and your valuable insight. An extra special thank you goes to Alix as she took the time to edit the entire paper. Every writer needs a primary editor; Alix you were that for me. You allowed the paper to remain in my words, while tightening the elements that needed to be improved.

I would like to commend Detective Jim Smyth on the masterful job that he did in his interview of Russell Williams. I appreciate you responding to my questions that you were permitted to respond to. I hope that I get the opportunity to meet you someday in person.

Finally, I would like to thank my parents. Dad, you were the real inspiration for me to write this paper. Talking about this subject matter with you is probably the closest opportunity that I will ever get to working with you on a professional level. I consider myself lucky to have had that opportunity and I really enjoyed your perspective on this subject matter. Mom, although we didn’t talk about the subject specifically, I would like to thank you for your emotional support and positive encouragement throughout this process. Both you and Dad have always taught me that hard work will always pay off. I thank you for instilling that work ethic in me. I love you both.

Thank you to everyone and I hope that you enjoy this paper.
INTERVIEWEES

Appleby, Mr. Timothy – Crime Reporter, Globe and Mail
Mr. Appleby is a British emigrant with a degree in politics and modern history from Manchester University. Mr. Appleby has lived in Toronto and worked at *The Globe and Mail* since 1982, working as a crime reporter, a foreign correspondent and a member of the Editorial Board. In 2011, Mr. Appleby released his book: “*A New Kind of Monster*” which describes the life of Colonel Russell Williams.

Fountain, Dr. Tina
Dr. Fountain has a Ph.D. in clinical psychology, a Masters of Education in Counselling and a B.A. in Psychology. Dr. Fountain has more than 20 years of practical and teaching experience. She has extensive training in Cognitive Behavior Therapy Techniques, Rational Emotive Behaviour Therapy and has specialized knowledge in the treatment of trauma. She is also a Certified Therapist in Eye Movement Desensitization and Reprocessing. Dr. Fountain has experience in designing and facilitating professional education programs and has presented to the DIFA program about the psychology of fraudsters.

Jones, Mr. Larry
Mr. Jones is a long-time Tweed, Ontario resident who was an early suspect in the Russell Williams investigation. Mr. Jones is 65 years old and has been happily married for over 45 years.

Macaulay, Sergeant Don
Sergeant Macaulay is currently an instructor with the Canadian Police College Polygraph Training Unit. His duties at the CPC are to train new Polygraph Examiners as well as to teach forensic interviewing to persons from all over the world. Sergeant Macaulay is a 20-year veteran
police officer with the Winnipeg Police Service. He has extensive investigative experience in several areas, including: homicides; commercial robberies; and sexual assault.

**Marshall, Dr. William**

Dr. Marshall is an Emeritus Professor of Psychology and Psychiatry at Queen's University in Canada and the Director of Rockwood Psychological Services which provides treatment for incarcerated sexual offenders. He has been treating and working with sexual offenders for 36 years and has over 380 publications, including 20 books. Dr. Marshall was the 1999 recipient of the Santiago Grisolia Prize for his worldwide contributions to the reduction of violence. In the year 2000, he was elected a Fellow of the Royal Society of Canada. Dr. Marshall was the President of the Association for the Treatment of Sexual Abusers from 2000 to 2001.

**Scott, Dr. Duncan**

Dr. Scott graduated with his Honours degree in Life Sciences at Queen’s University and was accepted into the School of Medicine at the University of Toronto. He is currently Deputy Chief of Psychiatry at Queen’s University in Kingston. He is also a staff psychiatrist for the Forensic Unit at Providence Care, Mental Health Services. Dr. Scott has a wide ranging field of expertise and acts as an expert witness for both the Crown and defence attorneys. Among his many professional affiliations, he is a member of the Canadian Society of Medical Examiners, the American College of Forensic Examiners, Canadian Academy of Psychiatry and Law, and a past President of the Association of Physicians in Corrections of Ontario.

**Urbszat, Dr. Dax**

Dr. Urbszat (University of Toronto) began his post-secondary education by attaining a Bachelor of Science from the University of Toronto with a Specialist in Psychology and a Major in Crime and Deviance. This undergraduate training led to a law degree from Osgoode Hall Law School followed by a Masters and Doctoral degree in Psychology from the University of Toronto. Dr. Urbszat’s research interests are in the areas of Personality, Social, and Forensic Psychology and he has also published in these areas.
**Watkins, Mr. Kerry**

Mr. Watkins holds a Bachelors degree in Criminology and Psychology, and a Masters degree in Criminology from the University of Toronto. Mr. Watkins has been a police officer with the Toronto Police Service for more than 23 years, where he has spent the majority of his career as a criminal investigator. He has previously published on the topics of investigative interviewing and deception detection in publications such as: Blue Line Magazine; RCMP Gazette; Forensic Evidence in Canada (2nd Ed) and the Canadian Journal of Police & Security Services. He is the principal author of the recently released text: “Interviewing and Investigation” (2011) published by Emond Montgomery: Toronto.

**Wozniak, Mr. Frank**

Mr. Wozniak is currently the lead instructor of interviewing techniques for DIFA professionals. Mr. Wozniak is president of Toronto Polygraph Services Inc. Mr. Wozniak retired after over 30 years with the Toronto Police Service (twenty six of those years were in the investigative field). Mr. Wozniak has been a Certified Forensic Polygraph Examiner since 1988. More specifically, he is an expert on statement taking, interviewing and interrogation techniques, statement content analysis, and polygraph procedures. Mr. Wozniak has been engaged in the training field for over eighteen years and has taught thousands of investigators all over the world the latest techniques in conducting interviews and detecting deception through verbal, non-verbal, and written communication.
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If there is any one secret of success, it lies in the ability to get the other person's point of view and see things from his angle as well as your own. ~ Henry Ford
1 PURPOSE

The genesis of this paper was an experience that I had watching the CBC’s *The Fifth Estate* and its commercial-free broadcast of the confession interview of Colonel Russell Williams.\(^1\) The masterful interviewing techniques employed by Detective Jim Smyth of the Ontario Provincial Police (OPP), compelled me to consider the applicability of those techniques in my work as an IFA.\(^2\) In watching Smyth’s insightful and commanding approach, I developed an increased passion to become a better interviewer. I wanted to understand the techniques Smyth utilized to elicit Williams’ confession. Taking it a step further, the purpose of this paper is to consider whether the IFA profession equips its investigators with the requisite tools to conduct effective suspect interviews in the corporate environment.

My writing and research follows an interpretivist academic approach which asserts that we are never entirely removed from what we are studying. Interpretivists acknowledge that one’s experiences and opinions shape one’s academic understanding and use this to provide a more thorough foundation for their research. In my case, Detective Smyth has served as an inspiration for me to write this paper; however I have always had a keen interest in the subject because of my father. My father, like Detective Smyth, is a trained polygraph instructor and interviewing specialist. Accordingly, he understands the ethical, legal and psychological considerations of a suspect interview. My father has always reminded me of the importance of excellent interview skills and how such skills shape a

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1 On October 22, 2010, Col. Russell Williams received two life sentences for first-degree murder, two 10-year sentences for sexual assault, two 10-year sentences for forcible confinement, as well as 82 one-year sentences for burglary.
2 The term “IFA” is used throughout this paper. IFA is short for investigative forensic accountant/accounting depending on the context.
positive investigative outcome. In doing so, he has always professed that police investigators have superior interview skills to the IFA because of their experience and training.

The perception that police investigators are superior interviewers to forensic accountants is widely held; in fact, the IFA profession turns to the police profession to train its DIFA\(^3\) professionals. This reliance also extends to private practice as many IFA firms employ former police investigators to lead investigative interviews. Accordingly, our profession is often dependent upon police investigators to elicit crucial evidence from interview subjects, notwithstanding that the IFA has a greater command over the technical skillset required to solve such crimes.

Police investigators receive comprehensive training which contributes to their reputation as being excellent interviewers. To teach the most comprehensive interview tactics, the Canadian Police College (“CPC”) educates its investigators about the complexities of the suspect interview. This enhanced training provides its investigators with an invaluable foundation: it incorporates techniques for interviewing both witnesses and suspects; however it focuses on suspect interviewing and its unique challenges. More specifically, police investigators receive training under a standardized interview model as part of a ten-day program.\(^4\) This interview model equips its investigators with the psychological tools necessary to interview suspects within the parameters of the law.

\(^3\) Diploma in Investigative Forensic Accounting (offered through the University of Toronto) is Canada’s most comprehensive forensic accounting designation.

\(^4\) Polygraph examiners receive three months of interview training that incorporates the standard ten-day program and expands to teach its investigators polygraph techniques.
The best investigators have a strong command of the psychological aspects of the investigative interview. In simplistic terms, the best investigators learn to “think like a crook to catch a crook.”5

In the Williams interview, Smyth needed to see the world from Williams’ vantage point in order to understand his vulnerabilities. The vile nature of Williams’ crimes did not render Smyth judgmental in his approach toward Williams. In executing the interview, Smyth was acutely aware that Williams is not a psychopath6, but rather an offender who does have an emotional conscience.7 Like you and me, Williams has emotional attachments in life; his are to his wife, and to the military. Smyth’s empathetic approach revealed Williams’ vulnerabilities and was a significant contributory factor to the confession. Many offenders, including both fraudsters and hardened criminals, have these emotional attachments. It is the investigator’s job to discover them.

In examining Smyth’s vast skillset, I realized that as a forensic accountant, I am not afforded the type of comprehensive standardized interview training afforded to police investigators. As an example, our DIFA curriculum provides its students with only one day of interview training, which is significantly shorter than the ten-day training afforded to police investigators. Further, the IFA profession does not have a standardized interview model to truly equip its professionals with the interview tools required to elicit confessions ethically.

5 (Ramamoorti & Olsen, 2007)
6 The American Psychiatric Association’s most recent Diagnostic and Statistical Manual – Fourth Edition (“DSMIV”) classifies both sociopathy and psychopathy under the term “antisocial personality disorder (APD).” APD is the pervasive pattern of disregard of the rights of others, as indicated by three or more of the following: (1) failure to conform to social norms with respect to lawful behaviours; (2) deceitfulness; (3) impulsivity; (4) irritability and aggressiveness, as indicated by repeated assaults; (5) reckless disregard for safety of self or others; (6) consistent irresponsibility; and, (7) lack of remorse.
7 The view that Williams is not a psychopath is espoused by several doctors that I interviewed for this paper, including one who has met with Williams on several occasions. Globe and Mail crime reporter Timothy Appleby also advanced this view in his book “A New Kind of Monster” which is a 2011 publication about the life of Col. Williams.
The aforementioned discrepancies in training lead to producing an incomplete investigative skillset. While it is true that IFAs are exceptionally prepared to understand the technical complexities associated with white-collar crime, they are not afforded the opportunity to become skilled through a standardized IFA interview model. While it is also true that the IFA profession does have many seasoned interview experts, at present, the majority of their skills are developed through experience, and not through a standardized IFA model of training. Would it not make sense for the profession to transfer the knowledge of its experienced investigators into a standardized interview model that would benefit the next generation of IFA professionals? Should this profession not assess the relative merits of other professions’ interview models and generate its own model in order to truly complete the IFA’s investigative skillset?

It is the IFA, and not the police investigator, who has the requisite skills to solve the most complex financial crimes. Accordingly, it should be the IFA and not the police investigator who leads the investigative interviews. While it is clear that IFAs have learned a great deal from police investigators, the profession has become too complacent in this relationship. If the IFA profession strives to be the premiere investigative accounting designation, it must teach a comprehensive skillset that allows the next generation of IFAs to be the most accomplished interview experts. In order to develop this quintessential skillset, the profession must deliver the leading interviewing model. It is for this purpose that I write this paper.
2 INTRODUCTION AND BACKGROUND

2.1 PERCEPTION NOT REALITY

The layperson may ask, “What does forensic accounting have to do with police work?” There are obvious differences between stereotypes of the two professions. Police officers are often viewed as willing to do whatever it takes to solve a crime, even if it involves unscrupulous tactics. The public’s perception of police interviewing is partially derived from mainstream television shows such as CSI and Law and Order. These TV shows often depict police interviews as aggressive and confrontational, relying on deception and trickery as required. In contrast, forensic accountants are viewed as conservative and less aggressive.

In contrast to stereotypic views, CAs may become impatient and aggressive in conducting suspect interviews. Similarly, the interview of Russell Williams falls far outside the expectation of the stereotypic police interview in relying on a subtle approach. Whatever the approach, although the training may be different, we serve a similar purpose. Both IFAs and police officers seek to gather evidence and objectively determine the factual basis underlying the investigation.

2.2 INTERVIEWING IN NORTH AMERICA

As the Williams investigation unfolded, police techniques and tactics did not always mirror the ethical interview of Russell Williams conducted by Detective Smyth. Consistent with the layperson’s stereotype of police interviewing is the story of Larry Jones, one of the early suspects in the case. The police ransacked Jones’ home in the course of executing a search warrant. Jones was
later subjected to an accusatory interview (often dubbed an interrogation\textsuperscript{8}) by the OPP. Jones states that he was subjected to the worst three hours of his life. Mr. Jones was interviewed as part of this paper.

The story of Larry Jones is not unique. It is common-place for innocent subjects to be interrogated. The leading interview model taught to police officers in North America is the REID\textsuperscript{9} model of interviewing (or some derivative of it).\textsuperscript{10} Under REID, the investigator is taught to conduct a non-accusatory interview, followed by a behavioural analysis interview. REID recommends that the investigator look for both verbal and non-verbal cues to deception. If the investigator senses that the suspect is guilty, an accusatory interview commences.

Many experts question the morality of using the REID technique which they describe as psychological coercion. In support of their views, these experts point to individuals such as Mr. Jones as well as those wrongfully convicted of crimes based on false confessions. In addition, these same experts are also questioning the scientific reliability of the deception detection techniques advocated by REID. They insist that the techniques are not reliable and can lead the investigator astray.

\begin{center}
\textsuperscript{8} The term interrogation and interviewing have different connotations. This paper will seek to add clarity to the perceptual differences.
\textsuperscript{9} Lawyers Fred E. Inbau and John E. Reid created the Reid Technique in the 1940s and 1950s. REID is an interrogation model and its concepts are explored extensively in Section 9 of this paper. There are other interrogation interview models such as the Kinesic model and Wicklander Zulawski model. These two models are very similar to REID and are accordingly not discussed.
\textsuperscript{10} (Snook, Eastwood, Stinson, Tedeschini, & House, 2010)
\end{center}
2.3 INTERVIEWING IN BRITAIN

In Britain, there has been a recognition that the emphasis on getting a confession has led to false accusations and dubious interview tactics. Accordingly, accusatory interviewing is no longer practiced. Instead, British police officers are trained under the PEACE\(^\text{11}\) model of interviewing. The PEACE model is an approach where the investigator asks the suspect for a complete account of his or her story, and challenges the discrepancies in that account, as required. Many researchers and academics are calling for investigative interviewing reform in Canada; more specifically, they recommend implementing the PEACE model in place of the REID model. Although it is clear that a non-accusatorial approach will result in fewer false confessions, questions remain as to its effectiveness.

2.4 TO WHAT EXTENT ARE POLICE OFFICERS TRAINED IN INTERVIEWING?

The Canadian Police College advised that basic police officers (street cops) receive limited interview training, while police investigators receive two weeks of interview training (10 days). The investigator training teaches a standardized interview model that addresses the legal, psychological and ethical considerations of interviewing. Investigators are taught how to interview both witnesses and suspects, with the REID method utilized for suspect interviews. The most sophisticated interviewers are also polygraph examiners. A polygraph examiner’s training incorporates the two-week training into his or her more complex three month program.

\(\textit{\textbf{11 PEACE is an interview model developed by: police; lawyers; and psychologists in the UK. PEACE is an acronym that stands for: Planning and preparation; Engage and explain; Account; Closure; and Evaluation. The concepts underlying the PEACE model of interviewing are explored extensively in Section 11 of this paper.}}\)
2.5 HOW ARE IFAs TRAINED IN INTERVIEWING?

The IFA profession does not train its investigators to nearly the same level as police investigators are trained. Some may take from this the impression that IFA training doesn’t highlight the true complexities of investigative interviewing. Interviewing is a form of communication and evidence gathering. In the context of forensic accounting, it is used to elicit critical information from witnesses and suspects. Accordingly, few skills are as crucial to the IFA as interviewing. Those who have a greater command of interviewing are better positioned to obtain evidence and solve crimes. Taking it a step further, the IFA who is skilled at interviewing is better served in all walks of life, both professionally and personally.

The IFA profession is not at the leading edge of investigative interview training. This criticism is not pointed at any one professional body; it is remarkably difficult to find comprehensive corporate interview training in general. For experienced IFAs, brief seminars are offered that simply scratch the surface of a complex field. The techniques taught are not consistent and students are not always afforded enough time to fully develop the skills learned.

For example, as previously mentioned, the DIFA program allots only one day to investigative interview training. Its current training incorporates police and polygraph assistance, currently taught by Frank Wozniak – a former police investigator and polygraph expert.12 Students learn lie-detection techniques advocated by REID that include both verbal and non-verbal indicators of deception. Wozniak openly acknowledges that there is much unresolved debate as to the scientific

12 I had several opportunities to discuss investigative interviewing with Wozniak because he was my mentor for this paper.
reliability of such lie-detection techniques. Accordingly, he cautions students that these techniques are simply “one star in the greater constellation” and the investigator should assess the evidence in totality prior to making any assumptions.

As this paper will show, numerous studies question the reliability of detecting either verbal or non-verbal cues to deception; the investigator’s odds of detecting a lie are limited to chance probability. Accordingly, it is suggested that the time spent teaching investigators lie-detection methods should be redirected to instruct them in other facets of interviewing. More specifically, the teachings should explore “interrogation questioning” techniques more fully, even though this term brings to the surface many negative connotations.

In the corporate world, many police-trained instructors feel compelled to avoid teaching the concepts of “interrogation”. Wozniak explains that “accounting professionals cringe when hearing the term interrogation and seek for a softer approach based on concepts similar to the PEACE model and that is what I teach.” He further indicates that IFAs’ perception of interrogation is misconstrued and is based on perceptions of Guantanamo Bay and the waterboard techniques utilized in the pursuit of Al Qaeda. Wozniak explains that interrogation is simply systematic questioning that instills the investigator with confidence. This view is echoed in Black’s Law Dictionary, which defines interrogation as “the formal or systematic questioning of a person.” By avoiding the teachings of “interrogation”, Wozniak believes that IFAs are missing out on the

13 In liaising with the CPC, they also informed me that many corporate professionals are hesitant to explore interrogation methods.

14 (Black & Garner, 2004)
opportunity to learn specialized questioning techniques that are imperative to a successful investigative outcome.

3 A NEW IFA INTERVIEWING STANDARD

Has, then, time come for the IFA profession to re-evaluate its approach to interview training? This paper suggests that the answer to this question is a resounding “yes”. Interviewing is a complex discipline that provides its practitioners with many ethical, legal, and psychological challenges. Accordingly, the IFA profession should be at the forefront of developing a model that suits the corporate world and is consistent with its ethical principles. To do so, the profession needs to closely examine the leading interview models and assess their relative merits and deficiencies.

The two leading interview technique models used in the world of policing are the previously mentioned REID and PEACE models; REID is taught to investigators in North America while PEACE is taught to investigators in the UK. The REID model begins with a non-accusatory interview process that teaches its investigators to gather facts and to assess whether the interview subject is deceptive. If the investigator is reasonably certain of the suspect’s guilt, the investigator is taught to interrogate the subject in order to persuade the suspect to tell the truth. PEACE suggests that the investigator stops short of interrogation, and instead teaches its investigators to challenge interview subjects about inconsistencies in their statements of account. Despite their philosophical differences, there are many similarities between REID and PEACE. For example, both models advocate rapport-building and open-ended questioning. Accordingly, it is up to the IFA profession to isolate the differences between the two models and assess the aspects that best equip its professionals to properly investigate the complexities of white-collar crime.
The confession interview of Russell Williams provides an excellent teaching example for the IFA profession. It can instruct and inform the creation of a suitable model because, although the interview dealt with murder instead of fraud, it was primarily evidence-based. This is consistent with how IFAs conduct investigations. Williams’ interview highlights some of the systematic questioning techniques advocated by REID that are not generally taught, but could be useful, to IFA professionals.

In truly examining its intricacies, the Williams interview was also consistent with a psychotherapeutic counselling session between two colleagues. Consistent with a therapeutic approach to counselling, Smyth questioned and presented evidence to Williams in a manner that effected change. Along the way, Williams changed his behavior from initial denial to a full confession. In many respects, the interview of Williams was consistent with the principles of Motivational Interviewing.

**MOTIVATIONAL INTERVIEWING**

The concept of Motivational Interviewing ("MI") is discussed in Timothy Appleby’s 2011 book: *A New Kind of Monster* which examines the life of Col. Williams. Included in Appleby’s book is a detailed analysis of the confession interview, which advances the notion that the interview was in many respects consistent with MI. Appleby confirmed that he was introduced to the term by Dr. William Marshall, a renowned psychologist with over 380 publications.

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15 (Appleby, 2011)
16 Even though Detective Smyth has not been specifically trained in MI, his wealth of experience would assist him in dealing with deceitful subjects reluctant to change. Detective Smyth provided me permission to discuss his professional
Dr. Marshall explained that MI is an interview approach used with subjects that are resistant to change. MI in the therapeutic context provides the therapist with systematic tools to explore change. It allows the therapist to explore the patient’s ambivalence; however, it is done in a manner through which the patient is more likely to choose the proper path to change. For example, even though there is a tremendous amount of “evidence” supporting the hazards to smokers’ health, they remain steadfast in their commitment to smoke. When approached confrontationally, they become further entrenched in their position. Oftentimes smokers rationalize their behaviour, similar to fraudsters rationalizing their crime. In simplified terms, for a smoker to quit, it must come from within. Similarly, the decision to confess should be that of the suspect. The most effective health practitioners challenge their patients in an ethical manner, while creating the emotional environment conducive to change. MI provides those practitioners with the tools to effect the required change.

Similarly to counsellors, IFAs counsel people all the time in both their professional and personal lives. They do learn how to foster effective communication through experience. Coupled with training and practice, Smyth’s life experience assisted him in properly questioning Williams. It is this type of experience that has allowed many IFA professionals to become excellent interviewers. The importance of experience to interviewing cannot be over emphasized; however, interviewers in all professions are better served with a solid foundational base of training.

training; however he could not discuss the Russell Williams confession interview because of an OPP directive. Detective Smyth has received polygraph training from the Canadian Police College and he has also been trained under REID from both the CPC and additional workshops.
TIME FOR CHANGE

The IFA profession must develop a more solid foundation of interview training. The profession has many interviewing experts that can bring the benefit of their knowledge to the next generation of professionals. Would the profession not be better served by translating that experience into a standardized interview model? Would it not be well served to develop its own corporate interview model in consultation with law enforcement officers and psychologists? The IFA profession does not need to re-invent the wheel; instead, it needs to apply existing principles and make interview training more comprehensive, consistent, and applicable to the fraud environment. The IFA profession needs to tailor an interview model consistent with its ethical principles, so that it can further entrench its position as the leading forensic accounting experts.

4 OVERVIEW OF PAPER

This paper will analyze the ethical, legal and psychological implications of suspect interviewing. Because of the complexities associated with suspect interviewing, the subject matter is vast. Therefore, a significant amount of work needs to be done to develop an IFA standardized interview model. The good news is that other professions have established models that the IFA profession can utilize in developing its own. This paper will examine the REID, PEACE and MI approach to interviewing.

After discussing theoretical interview models, this paper analyzes the real-life confession interview of Russell Williams in order to demonstrate how theory fits into practice. The interview of Russell Williams can serve as an excellent teaching guide for the IFA profession because it demonstrates many of the theoretical concepts associated with effective interviewing. An overview of this paper
is as follows:

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<th>Section</th>
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<tr>
<td>5 – The Role of the Interviewer</td>
<td>This section highlights the importance of the IFA being equipped to handle suspect interviews. Further, the section addresses the role that evidence and experience contribute to obtaining confessions. Finally, it addresses what empirical research suggests is the most effective interview approach for an investigator to follow.</td>
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A key point to consider when reading this paper is that the IFA’s goal is not to elicit a confession. The IFA’s goal is to objectively examine all forms of evidence with the goal of reporting a factual truth. Accordingly, the IFA must tread very carefully when conducting his or her investigation and should consider all alternatives in his or her thought process. The salient point is that the IFA must remain true to their principles of objectivity at all times, while also maintaining the necessary professional skepticism. The skilled IFA arrives at the truth, whether that corresponds to a confession or not.

5 THE ROLE OF THE INTERVIEWER

This section illustrates that there are many factors that lead to confessions. The IFA needs to be acutely aware of the roles that evidence, experience, and investigator demeanour play in the interview’s outcome.

5.1 SUSPECT INTERVIEWS

Some may question the need for training and practice for the IFA with respect to suspect interviews. Suspect interviews are less common than witness interviews because there tend to be more witnesses than suspects and suspects often chooses to invoke their right to silence. Nevertheless, there are many instances where the suspect does in fact talk to the IFA. In the civil context, consider an employee suspended over a fraud allegation who wants to provide his or her side of the story to the investigator. In the criminal context, police resource restrictions frequently require IFAs to conduct

17 (Watkins, Turtle, & Euale, 2011)
suspect interviews and generate investigative reports. Additionally, regulatory investigators speak with their members as part of the self-governance process (i.e. Chartered Accountants). In regulatory proceedings, the investigator meets with members who are required to respond to allegations against them. Because the regulatory process may compel its members to speak with the appointed investigator, members are frequently interviewed. Even if there are fewer opportunities to meet with suspects than witnesses, when called upon, the IFA needs to be equipped with the proper tools.

5.2 NO SUBSTITUTE FOR EXPERIENCE

As previously noted, this paper will explore a new approach to investigative interviewing in the corporate context. Despite this purpose, it is important to emphasize that it is extremely difficult to simplify interviewing to a single model. Consistent with many aspects of professional disciplines, investigators will improve their interviewing skills through actual practice. In doing so, the investigator incorporates personal style into the context of legal and ethical parameters. The interviewing techniques employed by Detective Smyth in the Williams interview may not appear complex; however, they result from years of practice. Smyth is a well-trained investigator that has seasoned his skills over time. Investigative interviewing training is important and valuable; but there is no substitute for experience.

5.3 EVIDENCE IN THE INVESTIGATIVE INTERVIEW

Along with experience, the importance of evidence in a suspect interview cannot be overstated. Studies have consistently shown that strong evidence is the primary reason suspects choose to
confess. In a February 2011 study, three Canadian criminology specialists highlighted its importance by examining factors contributing to confessions.\textsuperscript{18} The purpose of the study was to fill in gaps in past research and to examine the key factors that influence the offender’s decision to confess. The study was done on 221 prisoners who were serving sentences for greater than two years in a federal prison. It examined, among other things: individual and socio-demographic characteristics; criminological factors (such as repeat versus first-time offenders); and contextual factors – such as feelings of guilt; the role of legal advice; and the strength of police evidence. The study found that in cases where inmates classified the police evidence as strong, 80 percent of the first time offenders and 51 percent of the repeat offenders confessed to their crimes under police questioning. When police evidence is strong, criminological and contextual factors have a reduced impact on the suspect’s decision to confess.\textsuperscript{19}

Studies have also shown that the methods that the investigator uses to introduce the evidence are very important. A 2005 Swedish study\textsuperscript{20} indicated that the timing of evidence disclosure by the investigator can be a valuable deception detection tool. The study concluded that deceptive statements were more easily determined (68%) when evidence was disclosed later in the interview by the investigator. In essence, if the investigator introduces evidence to the suspect too early, it is much easier for that suspect to concoct false stories in an attempt to discredit that evidence. To simplify, if the suspect doesn’t know what “cards” (evidence) the investigator possesses, it is difficult for he or she to falsify a story attempting to refute that evidence. Moreover, the investigator is better positioned to question the suspect’s inconsistencies by confronting a deceitful suspect with

\begin{itemize}
\item \textsuperscript{18} (Deslauriers-Varin, Lussier, & St.Yves, 2011)
\item \textsuperscript{19} Ibid
\item \textsuperscript{20} (Hartwig, Granhag, Stromwall, & Vrij, 2005)
\end{itemize}
contradictory evidence. The study demonstrates that not only is evidence important; but it is also important for the investigator to skillfully utilize the evidence that he or she possesses.

### 5.4 Interviewer Conduct

Studies have also been done to examine the importance of the interviewer’s demeanour in an investigative interview. A 2006 Australian study\(^1\) was conducted to examine the views of both convicted sex offenders and police officers as pertaining to effective investigative interviewing approaches. The study highlighted not only that the competent use of evidence is important; but also the importance of empathy and rapport-building. The results suggested the most effective approaches were non-aggressive and consisted of: compassion; honesty; and neutrality. In addition, 63% of the subject offenders indicated that confessions would be less likely if the police officers were aggressive.

Consistent with the Australian study, a highly referenced 2002 study\(^2\) also demonstrated the importance of the investigator’s approach in the confession interview. The study was done in Sweden and consisted of 43 murderers and 40 sexual offenders. It focused on the offenders’ experiences in police interviews and their inclination to admit or deny crimes. The researchers concluded that police interviews marked by dominance are mainly associated with a higher proportion of denials; whereas a humanitarian approach is associated with admissions. Overall, the odds of admissions were 3.19 times greater for individuals who perceive the interviewer to have taken a humanitarian approach. Similarly, the odds of admissions were 5.92 times greater for

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1 (Kebbell & Hurren, 2006)
2 (Holmberg & Christianson, 2002)
offenders who believed they were treated with respect during the interview. The researchers noted that when suspects feel respected and acknowledged, they gain more confidence and autonomy. In turn, the suspects’ increased comfort creates the requisite conditions to confess.

The aforementioned studies bode well for the IFA profession because the findings are consistent with its values. The IFA who carefully gathers evidence and properly plans his or her interviews in a competent manner is most likely to be successful. Further, the gentler humane approach to interviewing appears to be most effective in obtaining confessions. Although this may sound simplistic, that is far from the case. Investigative interviewing is difficult; especially when dealing with suspects. Further contributing to that difficulty, the investigator needs to establish a rapport and obtain a confession within the parameters of the law. The next two sections address the legalities of suspect interviews.

6 WHAT IS A CONFESSION?

6.1 CONFESSION VS. ADMISSION

The layperson often does not distinguish between a confession and an admission. One could argue that many investigators also consider the terms to be synonymous. Black’s Law Dictionary specifically distinguishes the two terms as follows:

A confession is an acknowledgment in express words by the accused… of the truth of the main fact charged or of some essential part of it. The distinction between admissions…and confessions… is the distinction…between
admissions of fact from which the guilt of the accused may be inferred by the jury and the express admission of guilt itself. 23

To summarize, a confession is a complete account of the facts required to establish guilt, whereas an admission is an acknowledgement of a fact. For example, consider a suspect that acknowledges being aware of a fraud, or makes a comment such as “I did it”. These comments fall short of being a confession and are instead treated as admissions. Confessions include all the necessary elements for the prosecution to prove the *actus reus* (act) and *mens rea* (guilty mind) of the offence. The investigator needs to obtain these facts to ensure that the statement is complete.

6.2 IMPORTANCE OF THE CONFESSION

The confession is a very important piece of evidence. As Justice Byron White stated:

> The defendant’s own confession is probably the most probative and damaging evidence that can be admitted against him… Certainly, confessions have a profound impact on the jury, so much so that we may justifiably doubt its ability to put them out of mind even if told to do so.” 24

Clearly confessions are formidable pieces of evidence. They reduce the burden on the judicial system and provide the victim with a sense of closure. However, the IFA must not be overly focused on obtaining a confession. The IFA must continue to remain objective throughout the investigation.

23 (Black & Garner, 2004)
24 (*Bruton v. United States*, 1968)
CONFESSION LAWS - CANADA

An entire paper could be written on the admissibility of confession evidence and that is beyond the scope of this paper. However, an overview of the legal considerations for statement admissibility serves as an important component of an investigative interviewing paper. The investigator that is familiar with the laws pertaining to suspect interviews is best equipped to handle its challenges effectively. In most cases, the investigator should consult with legal counsel prior to conducting suspect interviews.

Criminal Proceedings

In criminal law, the confession rule governs the admissibility of statements and is discussed in section 7.1 below. In summary, statements made to persons in authority (generally persons of the state) must be made voluntarily.

Regulatory Proceedings

Given that investigators are not always conducting interviews in the criminal arena, it is important to consider other proceedings. In regulatory law, the confession rule does not apply per se because generally members of a regulatory body don’t have the “right to remain silent” in the regulatory proceedings. However, confessions would be governed by the principles of natural justice in order to ensure that proceedings are fair. In turn, if the statement was obtained under duress or oppressive conditions, its veracity could be highly questionable and could affect the weight that would be given to this evidence by the tribunal.

Civil Proceedings

In the civil context, a judge would assess the confession based on the facts at hand. Consistent with
regulatory proceedings, if the statement was obtained under duress or oppressive conditions, its veracity could be highly questionable.

7.1 THE CONFESSION RULE

The confession rule is a doctrine of English common law which states that confessions must be made voluntarily.\textsuperscript{25} It was established in 1914 in the \textit{Ibrahim} case. In 1922, the Supreme Court of Canada ("SCC") adopted the \textit{Ibrahim} rule, holding that the prosecution must establish voluntariness in order for a confession to be admissible.\textsuperscript{26} In 2000, the SCC refined the confession rule as part of the \textit{Oickle} case.\textsuperscript{27} In \textit{Oickle}, the SCC held that the Crown must show that any statement made to a person in authority (i.e. a police officer), must be made voluntarily (absent threat or promises, oppression, and of operating mind) in order for it to be admissible. There are two interesting concepts to examine with respect to the confession rule: \textit{persons in authority}, and \textit{voluntariness}.

PERSONS IN AUTHORITY

The confession rule only applies to a person in authority who is generally an employee of the state (i.e. a police officer). The SCC articulated the principle as follows:

\textit{The definition of ‘person in authority’ typically refers to those formally engaged in the arrest, detention, examination or prosecution of the accused and so applies to police officers and prison officials or guards…The proper test for “person in authority” examines first the objective status of the person to}
whom the confession or statement was made, and only where they are identified as someone formally engaged in the arrest, detention, interrogation or prosecution of the accused is it then necessary to examine whether the accused believed that the person could influence or control the proceedings against him or her. Only in the rarest of cases will non-traditional persons in authority fall into this category, and it still must be objectively established on the facts that such persons had actual control in the proceedings.\(^{28}\)

An interesting issue arises as to whether an IFA could be considered a person in authority in certain circumstances. As noted above, the SCC indicated that only in the rarest cases will non-traditional persons fall into this category, and it still must be objectively established that such person had actual control over the proceedings. However, consider the IFA that is interviewing an employee that is suspected of fraud. If that employee believes that the IFA controls whether or not a police report is made, perhaps the IFA could be viewed as a person in authority and therefore be subject to the same rules as police officers in obtaining confessions voluntarily and informing the suspect of their legal and Charter rights. It does raise an interesting debate.

This debate surfaced at the Newfoundland Supreme Court in the year 2000. In *R. v. Reid*,\(^{29}\) the judge viewed statements made by the suspect to two forensic accountants employed by KPMG, as inadmissible because the forensic accountants were persons in authority and the corresponding

\(^{29}\) (*R. v. Reid*, 2000)
confession was not obtained voluntarily. The judge arrived at the conclusion by considering the suspect’s perception of the IFAs as being persons in authority. The facts of the case were as follows:

- The suspect was accused of defrauding her employer of money;
- The employer had, to the suspect’s knowledge, gone to the police about the matter. The police informed the employer that they had a new policy whereby they would not lay charges unless a forensic audit was done at the employer’s expense; and
- The company retained KPMG to conduct a forensic audit. In doing so, the suspect’s manager made a comment in front of her about the need for employees to cooperate with KPMG.

The judge ruled that Reid’s statements were inadmissible because the accused reasonably believed that the IFAs were persons in authority and the statements were not obtained voluntarily. The accused felt that any information she gave to the IFAs would be passed on to the police and used to determine if a prosecution should commence. The KPMG representatives did not inform the accused that she was not obliged to answer their questions. Accordingly, the judge ruled that the statements were not voluntary. This is the type of case that IFAs need to be aware of because it provides defence lawyers with a precedent to render confessions as inadmissible, when IFAs do not take the necessary precautions.

30 The concept of voluntariness is examined below.
31 This case also highlights the importance of investigative interviewing for the IFA. IFAs are being asked to take a greater role in suspect interviews because of police resource restrictions.
Private Persons

Questions arise as to what rules must be followed when the IFA is not viewed as a person in authority. For example, the IFA may be a private investigator who is not perceived as acting for the state. The SCC addressed the notion of private persons and confessions by stating that little weight should be attached to a statement obtained in oppressive conditions, as follows:

I would suggest that in circumstances where a statement of the accused is obtained by a person who is not a person in authority by means of degrading treatment such as violence or threats of violence, a clear direction should be given to the jury as to the dangers of relying upon it....the statement may very well be either unreliable or untrue.\textsuperscript{32}

The impact of the SCC decision is clear, confessions obtained through inhumane treatment may well be deemed unreliable and even untrue.

\textsuperscript{32} (R. v. Hodgson, 1998)
VOLUNTARY STATEMENTS

The contemporary rules pertaining to the admissibility of confessions are articulated by the SCC in *Oickle.* In considering statements made to persons in authority, the courts will examine the following three factors to determine whether the statement is voluntary and admissible:

- Threats or promises;
- An atmosphere of oppression; and
- An operating mind.

Even though these three factors apply only in the criminal law context, the IFA is best served by following the spirit of these rules in conducting his or her investigations, regardless of legal forum.

THREATS OR PROMISES

Confessions must be obtained absent threats or promises from the investigator and this is the core of the confession rule dating back to *Ibrahim.* In *Ibrahim,* the courts ruled that statements would be inadmissible if they were the result of “fear of prejudice or hope of advantage.” Accordingly, the investigator needs to be careful. If he or she makes comments to the effect of “it would be better to tell” or it would be “better if they confessed” and those comments lead to corresponding confessions, then the court traditionally rules the confession inadmissible. On the other hand, phrases like “it would be better if you told the truth” should not automatically require exclusion. Instead, as in all

33 *R. v. Oickle,* 2000
34 *Ibrahim v. R,* 1914
35 *R. v. Oickle,* 2000
36 Ibid
cases, the trial judge must examine the entire context of the confession to determine whether it is involuntary and correspondingly inadmissible.\(^{37}\)

In addition, the investigator must tread carefully when it comes to offering promises to the accused. The courts have said that if a police officer says “if you don’t confess, you’ll spend the rest of your life in jail. Tell me what happened and I can get you a lighter sentence”, then clearly that is an improper inducement. In those cases, the suspect is not confessing voluntarily, but merely as a result of a *quid pro quo* offer of benefit.\(^{38}\)

Interestingly enough, the police officer is allowed to make spiritual inducements to the suspect. For example, the investigator is permitted to tell the suspect that he or she will feel better if he or she confesses. The courts have ruled that the results of such inducements are beyond the officer’s control and are accordingly admissible. In addition, there hasn’t been a *quid pro quo* offer or induced offer suggested by the investigator. The SCC stated:

> Very few confessions are inspired solely by remorse. Often the motives of an accused are mixed and include a hope that an early admission may lead to an earlier release or a lighter sentence. If it were the law that the mere presence of such a motive, even if promoted by something said or done by a person in authority, led inexorably to the exclusion of a confession, nearly every confession would be rendered inadmissible... There can be few prisoners who are being firmly but fairly questioned in a police station to whom it does not

\(^{37}\) Ibid

\(^{38}\) Ibid
The lesson for the IFA is clear. The investigator should choose his or her words very carefully when conducting a suspect interview. In addition, having knowledge of the law can assist the investigator in obtaining a confession statement that is considered admissible.

AN ATMOSPHERE OF OPPRESSION

The courts will view a confession as involuntary if the confession was obtained in an atmosphere of oppression. The courts have considered such factors as: depriving the suspect of food; clothing; water; sleep; medical attention; denying access to counsel; and aggressive, intimidating questioning for a prolonged period of time.40

Fabricated Evidence

A most interesting consideration of oppressive conditions is the investigator use of non-existent evidence. The courts view this tactic as very dangerous as it can result in false confessions; namely because false evidence is often crucial in convincing an innocent suspect that his or her protestations of innocence are futile. Nevertheless, the courts have said that confronting the suspect with inadmissible or fabricated evidence is not necessarily grounds for excluding a statement on its own. Instead, it is certainly a relevant consideration in determining whether a statement is involuntary when combined with other factors.41 This paper suggests that this is an example where the IFA’s

39 Ibid
40 Ibid
41 Ibid
professional ethics expect more of its practitioners than does the law. More specifically, it would be inappropriate for an IFA to concoct evidence because to do so would contravene his or her professional standards of ethics.

**AN OPERATING MIND**

In order for a statement to be viewed as voluntary, the suspect must be of operating mind. The SCC has defined an operating mind as one, “which requires that the accused have sufficient cognitive capacity to understand what he is saying and what is being said.” In the context of the IFA, this section does not require significant discussion as the majority of its suspects are likely of an operating mind. Nevertheless, the IFA should be aware of the rule.

### 7.2 IMPORTANCE OF THE LAW

The aforementioned rules should be considered by the IFA in all suspect interviews regardless of whether they pertain to criminal, administrative, or civil proceedings. Their importance is amplified in the criminal context as the rules form the subjective test for the trier of fact to determine the admissibility of the confession. As previously stated, the IFA should consult with legal counsel prior to conducting such an important interview.

In addition to the legal requirements imposed upon the investigator, there are additional ethical considerations that arise when the investigator selects his or her questioning techniques. The concepts of interrogation and interviewing are discussed in the next section of this paper.

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42 (R. v. Whittle, 1994)
The two questioning methods that investigators use to obtain information from suspects are interviews and interrogations. Although the terms are often used interchangeably, there are significant philosophical and strategic differences between the two concepts. The inventors of the REID technique distinguish interviewing from interrogation as follows:

- An interview is non-accusatory and its purpose is to gather information. Interviews are free flowing, relatively unstructured and may be conducted in a variety of environments.

- An interrogation is an accusatory process that involves active persuasion to learn the truth. An interrogation is conducted only when the investigator is reasonably certain of the suspect’s guilt. The investigator should not take any notes until after the suspect has told the truth and is fully committed to that position.

By examining the terms as defined through REID, it is clear that the spirit of interviewing and of interrogation is very different. Namely, an interview is non-confrontational and is used to elicit information with the suspect doing most of the talking. In contrast, an interrogation is accusatory, highly persuasive, and the interrogator dominates the discussion.

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43 Fred E. Inbau and John E. Reid created the Reid Technique in the 1940s and 1950s. Upon Inbau’s passing, Joseph P. Buckley continued on with revisions. He enlisted the assistance of Brian C. Jayne. Both Buckley and Jayne worked under the late John E. Reid. In referencing to REID, this paper is referring to the writings of these authors.

44 (Inbau, Reid, Buckley, & Jayne, 2001)
Prior to discussing the REID technique, an interesting comment can be made about interrogation. REID defines interrogation in a manner hallmarked by coercion and negative connotation.\textsuperscript{45} In doing so, this paper suggests that REID’s definition of interrogation is not fully consistent with all of its teachings. Although REID teaches an accusatory approach, the interview style is not always aggressively performed. In fact, REID does teach a more docile approach for emotional offenders (i.e. not psychopathic). For example, the questioning of Russell Williams had many characteristics of REID’s teachings, notwithstanding its subtle nature. In practice, many police investigators interrogate in a manner that is systematic as opposed to aggressive.

On the other hand, because of its accusatory nature, the process does lend itself to being abused. As noted earlier and elaborated on in Section 16, the interrogation of Larry Jones was problematic. He was subjected to numerous questions that were overly intrusive, despite the lack of evidence against him. It is for these reasons that many experts are calling for REID to be abolished and replaced in favour of PEACE. The two methods are discussed in the next several sections.

9 **THE REID TECHNIQUE**

The vast majority of Canadian police officers who receive suspect interview training\textsuperscript{46} are taught the REID Technique, or an abridged version of that method.\textsuperscript{47} The REID model of interviewing consists of three phases. Phase 1 is a fact-finding phase where the suspect does the majority of the talking. Phase 2 is a behavioural analysis phase where the investigator asks behaviour-provoking questions to monitor verbal and non-verbal cues to deception. Upon completion of phase 2, the

\textsuperscript{45} This notion was discussed in Section 2. *Black’s Law Dictionary* defines interrogation to be “the formal or systematic questioning of a person.”
investigator makes an assessment. If the investigator is reasonably certain about the suspect’s guilt, an interrogation begins (phase 3). The interrogation is accusatory and sometimes confrontational. It consists of nine-steps designed to obtain a confession.

9.1 HISTORICAL ROOTS

From the late 19th century through the 1930s, American police routinely inflicted physical and mental pain to extract confessions from criminal suspects. These “third degree” tactics included torture such as: holding a suspect’s head under water; hitting suspects with a rubber hose; forcing a suspect to stand for hours on end; and shining bright blinding lights on suspects. These methods were commonplace and resulted in a large number of false confessions. These tactics were extensively documented and revealed in the Wickersham Commission Report,48 commissioned by President Herbert Hoover as part of the examination of Prohibition in 1931. This watershed report was followed by the 1936 landmark decision by The United States Supreme Court49 that invalidated physically coerced police confessions.50 The public uproar against physically coerced confessions is the genesis of the REID technique.

The REID technique was a welcome and revolutionary change from the violent “third degree” method it replaced. It is based on many of the same principles that underlie the lie-detector test.

46 (Deslauriers-Varin, Lussier, & St.Yves, 2011)
47 There are other interrogation interview models such as the Kinesic model and Wicklander Zulawski model. These two models are very similar to REID and are accordingly not discussed.
48 As cited in (Kassin, Drizin, Grisso, Gudjonsson, Leo, & Redlich, 1999)
49 (Brown v. Mississippi, 1936)
50 (Leo, 2008)
Interestingly, the inventors of the REID technique, Fred E. Inbau and John E. Reid, were lawyers and not psychologists.\textsuperscript{51}

\textbf{9.2 NON-ACCUSATORY INTERVIEW (PHASE 1)}

The REID model of interviewing is an accusatory approach; however its first phase begins with a non-accusatory interview in order for the interviewer to develop rapport with the suspect. REID strongly advocates the importance of rapport-building because it establishes comfort and trust between the investigator and the suspect. To accomplish this, the investigator can talk to the suspect about things in common or ask the suspect about his or her background information to put the suspect at ease.

Phase 1 also allows the investigator the opportunity to ask fact-finding investigative questions. These questions help assess the subject’s motive and opportunity to commit the offence. The suspect is more apt to volunteer information when asked questions in a non-accusatory manner.

Finally, phase 1 allows the investigator the opportunity to gain insight as to the subject’s normal or base-line behaviour. Moreover, it is easier to detect deception when the investigator understands how the suspect typically responds to non-threatening questions.

\begin{flushright}
\textsuperscript{51} (Gallini, 2010). Gallini views the REID method as pseudo-science that is not supportable. He questions how two lawyers are qualified to create a method based on the underpinnings of psychology.
\end{flushright}
9.3 THE BEHAVIORAL ANALYSIS INTERVIEW (PHASE 2)

The second phase of REID is also non-accusatory. The investigator conducts a “Behavioural Analysis Interview” (“BAI”) to determine whether the investigator can be “reasonably certain” or “definite” of the suspect’s guilt.\(^{52}\) If the investigator believes the suspect is guilty,\(^{53}\) he or she then conducts an interrogation which is done to persuade the suspect to tell the truth.

The BAI consists of three elements for the investigator to utilize:

1. Observation and evaluation of verbal and non-verbal indicators;
2. Behaviour provoking questions; and
3. Specialized questioning.

The DIFA program teaches its students methods similar to item 1 above: i.e. the observation and evaluation of verbal and non-verbal indicators of deception and truth-telling. The other two items are currently not taught to DIFA students.

In discussing the BAI, this paper utilizes its own examples that are theoretically consistent with REID’s textbooks.\(^{54} & 55\)

\(^{52}\) (Buckley, 2006)
\(^{53}\) REID indicates that this is not the same as criminal guilt. Instead, it is simply a judgment that is made by the interviewer as to whether the suspect is guilty in the mind of the investigator.
\(^{54}\) (Inbau, Reid, Buckley, & Jayne, 2001)
\(^{55}\) (Inbau, Reid, Buckley, & Jayne, Essentials of the Reid Technique - Criminal Interrogation and Confessions, 2005)
OBSERVATION AND EVALUATION OF VERBAL AND NON-VERBAL INDICATORS

REID advocates that there are a number of behavioural clues that the investigator can study to make observations about the suspect’s truthfulness. These include both verbal and non-verbal indicators.

**Verbal Indicators**

REID teaches that a truthful response does not invoke the internal anxiety that a deceptive response will generate. As the suspect moves further from the truth, he or she will experience increased anxiety. REID advises that truthful subjects respond to questions directly, whereas deceptive subjects tend to answer evasively. A famous example of a deceptive statement was that of former President Bill Clinton in his 1998 Grand Jury testimony. He evasively stated: “I did not have sexual relations with that woman.” In doing so, he purposefully hid behind a vague description of “sexual relations” and also avoided using Monica Lewinsky’s name. REID’s methods would suggest that had Clinton been telling the truth, his denial would have been more direct.

REID instructs its investigators to evaluate the manner in which statements are denied. A truthful denial will be vocalized with a direct statement such as “I didn’t have anything to do with falsifying any journal entries” whereas deceptive subjects are more likely to offer weak denials such as “Uh, huh” or simply shake their head. REID also mentions that deceptive subjects are more likely to

56 Ibid
57 The Bill Clinton Grand Jury testimony reminds the IFA of the importance of effective and clear questioning strategies. Consider Clinton’s apology statement in August, 1998 that hid behind the notion that his answers were in fact legally accurate, despite him not volunteering information. Perhaps more effective questioning would have made it more difficult for Clinton to lie.
58 In utilizing these examples, this paper is not advocating the reliability of these lie-detection techniques. Instead, the examples are utilized to illustrate REID’s teachings.
bolster their statements with comments such as, “As God as my witness”, “I swear”, “On my mother’s grave”, and “Honestly”.  

**Non-Verbal Indicators**

REID also teaches the importance of studying body language in detecting deception. REID cites that as much as 70% of a message communicated between persons occurs at the nonverbal level. The investigator is trained to examine among other things, the following:

1. Lack of eye contact – generally speaking, a suspect who does not make direct eye contact is probably being deceptive;
2. Deceptive Posture – such as slouching, non-frontal alignment, deceptive barriers.
3. Touching - of his or her nose, ears, or lips;
4. Shuffling of the feet or hiding the feet by pulling them under the chair; and
5. Placing the hands over the mouth or eyes.

Although REID does not provide any direct empirical support for the aforementioned items, the method advocates that these are tools that the investigator should consider in evaluating deceptive subjects.

59 (Inbau, Reid, Buckley, & Jayne, *Essentials of the Reid Technique - Criminal Interrogation and Confessions*, 2005)
60 Ibid
61 Ibid
BEHAVIOUR PROVOKING QUESTIONS

Upon completion of phase 1 and the non-accusatory investigative questions, REID suggests that a BAI should be conducted as part of phase 2. The purpose of the BAI is to ask behaviour-provoking questions that are specifically designed to obtain certain responses. These questions provide the investigator with the opportunity to evaluate whether a subject is being truthful or deceptive.

The BAI has 15 questions for the investigator to utilize. In practice, not all questions will be suitable for each investigation. The investigator should consider the suspect and the nature of the alleged offence. To illustrate an example of the BAI, I have altered the questions from the REID textbook to make them more applicable to white-collar crime.

CASE EXAMPLE

Consider a situation where I am being interviewed for theft of missing money from the petty cash fund at my office. For example purposes, assume that the petty cash fund was sufficiently large at $1,000. An investigator has been called in because my boss wants to identify the dishonest employee. It is assumed that the person would lose his or her job if found guilty which highlights the importance of this example. The BAI consists of up to 15 theme-type questions for the investigator to ask, beginning with “purpose”.

1. Purpose - Scott, what is your understanding of the purpose of this interview?

62 (Inbau, Reid, Buckley, & Jayne, Criminal Interrogation and Confessions, 2001)
63 Ibid
64 In describing these methods, the author of this paper is not assuming an advocate position for particular tactics, and is instead illustrating REID’s teachings through the use of examples.
REID teaches that blunt responses are more characteristic of innocence, whereas evasive or vague responses are considered to be deceptive. If I say, “I suppose you want to talk to me about what transpired at the office,” then that would be viewed as vague. This is similar to Clinton’s vague response discussed above. In contrast, if I say, “I’m sure you want to find out who stole the money” then that would be considered more truthful because it is direct and contains realistic language characteristic of innocence.

The next question is a “history/you” question in which the investigator should state the issue under investigation and ask the subject if he or she was involved, as follows:

2. **History/You** - Scott, as you are aware, there was a theft in the office. If you committed this theft, our investigation will clearly indicate that. If you had nothing to do with it, our investigation will show that and therefore you need not worry. Before we go any further, you should tell me whether you took the money.

REID advocates that the direct question will surprise a deceptive subject and should reveal a bolstered, evasive or delayed response. If I say, “honestly why would I do that” or “I find this offensive” then that would be viewed as deceptive. In contrast, if I was telling the truth, I would more directly deny the accusation.

The subject is then asked specifically whether or not they know who committed the offence, as follows:

3. **Knowledge** - Do you know who did take the money?
REID advises that if I was honest, I would distance myself both emotionally and geographically without giving the question much thought, such as: “No, I do not.” However, if I was innocent then I would sound more sincere stating, “Well, I don’t know for sure, names have come up at work, but I don’t know for sure” or “I wish I did, but I have no idea whatsoever.”

Most guilty suspects will deny knowing who committed the offence. Accordingly, the investigator should ask the suspect about his or her suspicions.

4. Suspicion. Scott, who do you suspect may have taken the money? Even if it is a gut feeling and you are completely wrong. Any name that you give me will not be released to that person. Who do you suspect may have done this?

Similar to the knowledge question, if I was being deceitful then I would be less likely to name another person because that would cause me to have to come up with an unnecessary lie. REID indicates that an exception to this would be if the crime is limited to two potential suspects. As a lighter example, if you have two children and you ask the older sibling who took the cookie, he or she will likely blame his or her younger sibling.

In contrast, a truthful subject will often name one or more individuals whom they think possibly committed the offence. Interestingly, Larry Jones, who was wrongfully accused of two of the sexual assaults in the Russell Williams investigation, told me that he provided a list to the police of potential suspects. He told me that he did this because he wanted to clear his name.

The suspect is then asked a “vouch” question in order to evaluate the subject’s helpfulness and to assess the subject’s thoughts concerning the crime, as follows:
5. Vouch - Scott, of the people who work at the office, is there anyone who you feel certain did not take the money, where you could vouch for that person’s innocence?

REID indicates that the deceitful subject would be non-committal and say things like, “I think everyone in the office is honest”, or “not really.” If I was being truthful, I would readily name individuals to assist with the investigation.

The subject is then asked a “credibility” question to determine whether or not the subject is realistic in his or her crime assessment, as follows:

6. Credibility - Scott, do you think that the money was really stolen?

REID teaches that a truthful subject is more likely to acknowledge that a theft had occurred. So if I say, “well there hasn’t been a problem with petty cash in the 5 years I have been with the company and it gets reconciled weekly, so someone probably took it,” then this is more likely to be a truthful statement. In contrast, if I was being deceitful then I would take this opportunity to discredit the investigation. I may say, “This could simply be a paperwork error” or “perhaps the bank has made an error as they are known to do that.”

The investigator is then taught to ask an “opportunity” question which also assesses whether the suspect is realistic in his or her crime assessment and whether he or she had the opportunity to commit the offence. An example is as follows:

7. Opportunity - Scott, who would have had the best opportunity to take the money if he or she so desired? I’m not saying that this person did it, but who would have had the greatest opportunity?
REID advises that a truthful subject will be more open and realistic to acknowledging having had the opportunity to take the money. A truthful subject may say, “Any of us who have keys to the office could have done this.” On the other hand, if I was being deceitful I would make the investigation wide open by pointing to unrealistic suspects, as follows: “Gosh, the cleaning staff or any of the delivery companies could have done this.”

REID then instructs its investigators to ask a question that can assess the subject’s “attitude” about the crime, as follows:

8. **Attitude - Scott, how do you feel about being interviewed concerning this theft?**

REID teaches that innocent and guilty subjects approach interviews with different attitudes. The innocent subject is more likely to sound cooperative. For example, “I don’t want this hanging over me and I am happy to be of assistance.” In contrast, if I was being deceitful I could say, “I don’t understand why we have to conduct such a lengthy interview, this could have been anyone. For all we know, this could be an error.” Deceptive subjects are more likely to voice negative feelings during the interview.

REID then teaches the investigator to ask the subject whether or not he or she has ever thought of doing something similar to the offence under investigation.

9. **Think - Scott, have you ever just thought about doing something like taking the money?**

REID indicates that the truthful response to this question blatantly rejects the possibility of the thought, such as “No way, not ever.” REID indicates that the “think” question relies on the guilty
suspect’s internal need to talk about the crime in a way that relieves anxiety, while escaping any consequences, because thoughts are not evidence. Accordingly, the deceitful subject could say, “Well sure I have thought about taking the money, I bet all of us have.” Alternatively, a guilty subject may respond with a non-emphatic qualification such as, “No, not really”.

The next question that REID advocates is the “motive” question which is asked in order to further assess the subject’s thought process about why the crime occurred.

**10. Motive - Scott, why do you think someone would take the petty cash money?**

REID advises that if I was innocent I would be more comfortable discussing the possible motives. However, the guilty subject is less comfortable and will say things such as, “how would I know, it could be anybody.” REID advises that the guilty subject will be threatened by such a question.

After the motive question, the investigator is taught to ask the subject about what he or she thinks a suitable punishment would be for such an offence, as follows:

**11. Punishment - Scott, what do you think should happen to the person that took the money?**

According to REID, if I am innocent I would say, “the person should be fired” and I would be more comfortable discussing this topic. If I am deceitful, then I would be more evasive offering comments such as, “it depends on the circumstances” or “well, that really isn’t my decision.”

Similar to the “punishment” question, the investigator should ask the subject whether or not a second chance should be afforded to the guilty party, as follows:
12. Second Chance - Scott, under any circumstances do you think the person that took the money should be given a second chance?

A truthful subject will think that the guilty individual does not deserve a second chance.
Alternatively, if I am guilty, I may say, “It’s important to consider all the facts.” In essence, the deceitful subject will be more likely to offer conditional language in his or her verbal communication.

REID then suggests that the investigator ask the subject why he or she would not commit the offence. This question is difficult for the guilty subject to answer because he or she knows that he or she is guilty; but is forced to concoct a credible reason to suggest otherwise, as follows:

13. Objection - Scott, tell me why you wouldn’t do something like this?

REID advises that innocent subjects are more likely to respond in a first-person context such as, “Because I am not a thief” or “I could never do such a thing.” In contrast, deceptive subjects are more likely to offer a distanced response such as “It’s wrong” or “that’s against the law.”

The next question that the investigator is taught to ask is the “results” question. The purpose of this question is to assess the subject’s confidence in his or her own innocence.

14. Results - Scott, once we complete our entire investigation, what do you think the results will be with respect to your involvement?

According to REID, innocent subjects will express confidence in being exonerated. For example, if I said “It will demonstrate that I am innocent” or “The investigation will clear me” then these are more likely to be truthful responses. On the other hand, if I am guilty, I would demonstrate
diminished confidence providing a brief response such as: “clean”, “innocent” or “I hope it comes out okay.”

The last question of the BAI is designed to obtain some insights on what the subject’s feelings had been prior to the interview. The subject is asked whether he or she told anybody that he or she was going to be interviewed about the crime, as follows:

15. Tell Loved Ones – Scott, who did you tell about our interview that was going to happen today?

REID advocates that it is human nature to seek out comfort and solace from loved ones in difficult times. Accordingly, it would be very suspicious if I had not told a loved one about being investigated. REID also states that guilty subjects will sometimes tell loved ones about an investigation out of necessity. Therefore, the investigator should ask a follow up question such as “what was your father’s reaction when you told him?” REID indicates that interesting details about my personality could be revealed if my father questioned whether I stole the money because that implies that even my loved ones are capable of questioning my innocence.

Investigator Caution

With respect to the 15 aforementioned questions, REID cautions that not every question will elicit responses that match the models of descriptions. The investigator is advised to examine the responses in a global manner to determine whether the subject is potentially guilty or innocent.
REID also makes the following notation which could be viewed as alarming:

For court purposes, it is not recommended that the investigator categorize a suspect’s response to behaviour-provoking questions as truthful or deceptive at the time each question is asked. This practice may invite a defence attorney to ask the investigator to explain exactly why he classified each response as he did, to explain the research findings supporting his classification, and to comment on the differential diagnosis of the response. This type of testimony is best left for an expert in behaviour analysis. 65

Upon close examination of the above quotation, even the inventors of REID do not sound confident in their lie-detection tactics. Correspondingly, many experts do in fact refute the reliability of these methods. There have been numerous research studies done that demonstrate that lie-detection techniques are not scientifically sound. REID’s harshest critics point to the lack of empirical support for its techniques. Examples of these studies are discussed in Section 10.

SPECIALIZED QUESTIONING

REID discusses specialized questioning techniques as part of the behavioural analysis portions of the interview (phase 1 and 2 discussed above). Techniques offered include assumptive questioning and trapping the subject in deceit. The primary technique discussed is the use of the “bait” question. Bait questions are non-accusatory questions; but also present the subject a reasonable probability that evidence exists to implicate him or her as responsible for the offence. Going back to the previous petty cash theft example, the investigator would ask me a bait question to see if I would consider changing the nature of my denial. For example, assume that Marlene was the cash clerk

65 (Inbau, Reid, Buckley, & Jayne, Criminal Interrogation and Confessions, 2001)
that maintained the petty cash fund and the money went missing last week. The investigator could say to me, “Scott is there any reason why you would have been looking through Marlene’s desk drawers last week?” Before I answer, the investigator is advised to interject and say: “Scott, I am not accusing you of anything; maybe you were just borrowing a pen or pencil; but what if I told you that the security guard saw you at Marlene’s desk last week?” If I was innocent, I would emphatically deny being at Marlene’s desk. However, REID advises that if I was guilty then I would at least hesitate to answer the possibility that I was perusing through Marlene’s desk.

At the end of the behavioural analysis phase, the investigator is asked to make an internal determination whether he or she is reasonably certain as to the subject’s guilt. If the investigator believes the suspect has committed the offence, then an interrogation commences.

9.4 EMOTIONAL VERSUS NON-EMOTIONAL OFFENDERS

Prior to commencing the interrogation, the investigator considers the type of interrogation that he or she will conduct. The selection of procedures depends on various characteristics, such as: the personality of the suspect; the probable motivation for the crime; and the suspect’s initial responses to questioning. In doing so, the investigator classifies the offender’s personality as either an emotional or a non-emotional offender.66

EMOTIONAL OFFENDERS

REID indicates that the emotional offender is the one with the “troubled conscience” and tends to be more emotionally involved with the investigator’s words and actions. As the interrogation

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66 (Inbau, Reid, Buckley, & Jayne, Essentials of the Reid Technique - Criminal Interrogation and Confessions, 2005)
progresses, the emotional offender will perhaps develop teary eyes or become less rigid with his or her posture. The suspect’s eye contact with the investigator diminishes and eventually culminates with a vacant stare to the floor.

As later analyzed, Williams’ posture does become similar to that described by REID as clearly Williams is an emotional offender who does experience anxiety. It is perhaps counter-intuitive to imagine Williams as an emotional offender given the reprehensible nature of his offences. REID cautions against making such assumptions, and states:

“A common mistake many investigators make when formulating an interrogation is to assume, based on the offender’s criminal record or demeanour during the interview, that he must be a non-emotional offender. As a general rule, the majority of all offenders, emotional and non-emotional, possess emotional traits to some degree.”

Accordingly, the investigator is best served in beginning with a sympathetic interview style.

NON-EMOTIONAL OFFENDERS

A non-emotional offender is a person who ordinarily does not experience a troubled conscience after committing a crime. Although the inventors of REID do not get technical in their analysis, they are referring to the antisocial/psychopathic personality types, i.e. Paul Bernardo and Bernie Madoff. To interview these types of individuals, the investigator should not attempt to appeal to their emotive

67 (Inbau, Reid, Buckley, & Jayne, Criminal Interrogation and Confessions, 2001)
68 In meeting with various doctors in doing this paper, they confirmed that these two individuals do fit the antisocial personality description.
components. Instead, it is most effective to utilize a factual-analysis approach and appeal to the suspect’s common sense and reasoning. In essence, the investigator should persuade the suspect that his or her guilt is established and the intelligent choice is to tell the truth.\textsuperscript{69}

\textsuperscript{69} (Inbau, Reid, Buckley, & Jayne, \textit{Essentials of the Reid Technique - Criminal Interrogation and Confessions}, 2005)
REID illustrates nine steps associated with interrogation. In practical terms, the steps may not all be utilized depending on the circumstances of the particular interrogation. The purpose of the interrogation is to persuade the suspect to tell the truth. To do so, the investigator does the majority of the talking. The goal is to increase the suspect’s anxiety level while simultaneously decreasing the perceived consequences of the confession. The nine steps of interrogation are as follows:

1. Direct Positive Confrontation;
2. Theme Development;
3. Handling Denials;
4. Overcoming Objections;
5. Procurement and Retention of a Suspect’s Attention;
6. Handling the Suspect’s Passive Mood;
7. Presenting an Alternative Question;
8. Developing the Details of the Offence; and

The nine steps are elaborated on in the following sub-sections.

**STEP 1 – DIRECT POSITIVE CONFRONTATION**

In this step, the investigator emphatically states that the suspect is responsible for the offence under investigation. The investigator needs to display confidence in this statement in order to obtain a psychological advantage over the suspect. In addition, the investigator is asked to use more neutral words to describe the offence and avoid words such as: “stole” which conjure up legal consequences in the suspect’s mind. Following the earlier example of a petty cash theft, the statement would be similar to the following:
Scott, the results of our investigation clearly indicate that you have not told the whole truth about the missing money.

The investigator is then asked to do a transition statement that provides the suspect with a perceived benefit of telling the truth. However, the benefit can in no way involve a promise for leniency as that would render the confession involuntary.\(^\text{70}\) An example of a transition statement would be as follows:

Scott, in my experience there are two types of people who take money from another person. The first type of person is greedy and feels no remorse for his actions. This type of person consistently disregards others in his or her actions. In contrast, the second type of person who does do something like this is basically honest and hardworking but makes a spontaneous mistake. This type of person feels badly about this mistake. Now Scott, there is absolutely no doubt that you did this. Help me understand what kind of person you are.

**STEP 2 – THEME DEVELOPMENT**

After step 1, the investigator then moves into the theme development stage which presents the suspect with a “moral excuse” or “crutch” that minimizes the moral implications of the conduct.\(^\text{71}\) REID teaches that the innocent person will reject this theme, whereas the guilty subject will appear to listen. An example of a possible theme would be as follows:

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\(^{70}\) (Inbau, Reid, Buckley, & Jayne, *Essentials of the Reid Technique - Criminal Interrogation and Confessions*, 2005)

\(^{71}\) Ibid
Scott, you have had a successful career as a Chartered Accountant. From everyone that I have spoken to, you are extremely hard working and perhaps are even underpaid for what you bring to this organization. It appears to me that you are intelligent, ambitious, and by and large an honest man. Times are tough these days, and I think that has what has led us to where we are today.

Again, REID cautions investigators to avoid themes that absolve the suspect of the legal consequences of their actions. DIFA instructor Frank Wozniak, provides an example which he characterizes as an early career mistake:

Early in my career I made the mistake of minimizing the legal consequences of an offence in my questioning. I was interviewing a First Nation’s suspect who was responsible for a second degree murder. He had been sharing wine with some friends and the victim took a large swig of wine that provoked anger to my interview subject. Accordingly, my subject picked up a large stone and threw it at the victim severing his carotid artery. I told the suspect that I could understand that they were just fooling around and thus minimized the legal consequences of the offence. My mistake reduced the charge from a second degree murder, to an assault causing bodily harm.

Wozniak’s story illustrates the importance of understanding the parameters of the law when conducting an interrogation.

STEP 3 – HANDLING DENIALS

Suspects will often continue to deny offences regardless of whether they are guilty or innocent. REID advocates that the investigator needs to discourage such denials and redirect the suspect to the moral excuse offered. For example, the investigator can raise his or her hand with the palm outward in a “stop gesture” format toward the suspect and state:
Scott, we are not going to go there. We have already established that you took the money; we are just trying to figure out why.

STEP 4 – OVERCOMING OBJECTIONS

The fourth step involves overcoming the suspect’s secondary line of defence as to why he or she did not commit the offence. An innocent person will emphatically deny responsibility whereas a guilty person will say things like, “I am a Chartered Accountant, and I am not the kind of guy that would do this type of thing.” It is believed that these types of objections cause the guilty suspect less internal anxiety than an emphatic denial. The investigator is taught to handle the denials in a similar manner to step three, as follows:

Scott, please, let’s not go through these excuses, I understand that you are an honest guy. Let’s get back to why. Help me better understand the pressures you have been facing.

STEP 5 – PROCUREMENT AND RETENTION OF A SUSPECT’S ATTENTION

According to REID, an innocent subject will continue to remain psychologically committed to maintain his or her innocence. In contrast, a guilty subject who does not want to tell the truth will mentally withdraw or tune out the investigator. Many individuals withdraw from situations in their everyday lives. For example, as a Chartered Accountant, I can recall sitting in accounting class in

72 This tactic is generally regarded by experts in the industry as one of questionable morality because it is overbearing and aggressive. In describing this tactic or any of REID’s tactics, the author of this paper is not assuming an advocate position. Instead, this paper is describing REID’s methods.
university understanding the basics of debits and credits. However, as soon as the professor ramped up the discussion to financial instruments or foreign currency translation, I was defeated and zoned out as it was beyond my comprehension. A good professor would notice the subject matter was increasingly complex and would recapture the students’ attention by saying: “I know this is a tricky area, but you will get it. I need you to listen here as this will be a big focus on the final exam.” As soon as any CA hears that something is on the final exam, he or she is more inclined to tune in intently. Similarly, a good investigator needs to maintain the focus of his or her interview subject. The investigator can do so by stating the suspect’s first name, perhaps moving closer in proximity, establishing eye contact or touching his or her arm. The investigator may say something like this:

Scott, I know that this is difficult for you, but I need you to listen to me as this is important. I need your attention to help me work through this.
STEP 6 – HANDLING THE SUSPECT’S PASSIVE MOOD

The sixth step involves the investigator recognizing the suspect’s passive mood, which is a state where the suspect is weighing the possible benefits of telling the truth. A subject’s passive mood is generally displayed with a change in body language, such as a collapsed posture or eyes to the floor. In the Williams case, Williams looked like this prior to telling the truth:

![Williams in a passive state; changed posture looking the floor.](image)

STEP 7 – PRESENTING AN ALTERNATIVE QUESTION

The concept of an alternative question is based on the principal that people are more likely to respond favourably to a question when they have partially committed themselves. As a lighter example, if a server asked a customer, “Would you like some dessert today, or are you full?” then it would be easier for the customer to say “no” because the customer has not been enticed to respond favourably. However, suppose the server was more strategic and described the dessert options to the customer and then asked, “Will it be a small piece of pie or some ice cream?” The chances are
greater that the customer would say yes because the server has partially committed the customer to his or her response.

In the context of the petty cash example, the question may be, “Scott, did you use the money to pay some bills or do you still have it in your possession?” By doing so, the investigator is creating a safer environment for me to confess.

STEP 8 – DEVELOPING THE DETAILS OF THE OFFENCE

After the suspect has confessed, the investigator needs to get the complete factual account of the statement. Continuing our earlier example, details can include what happened to the money, how many times this has occurred, etc.

The IFA should be cautioned about this step. Although the step hasn’t been described in significant detail, it is extremely important. Some investigators do not obtain sufficient detail to get a complete account of what occurred. The investigator should consider the legal requirements necessary to prove the offence. It is easy for the investigator to get caught up in the emotions of the interview and forget these pertinent details. For example, consider a fraud where a cheque was altered. It is important to confirm with the suspect that it is in fact his or her handwriting that altered the cheque. If the investigator forgets to obtain these details, it can be detrimental to the investigative outcome as the investigator may not be afforded another opportunity to speak with the suspect. At the time of confession, the suspect is in his or her most vulnerable state.
STEP 9 – THE WRITTEN CONFESSION

According to REID, the investigator should not take notes during the key emotional stages of the interview because the suspect is more careful with his or her wording when the investigator is pausing to take notes. Further, it is more difficult to establish rapport with an interview subject when the flow of the interview is disrupted by investigator note-taking. Accordingly, step nine involves turning the verbal confession into a written confession. Although the legalities of recording statements are outside the scope of this paper, it is recommended that the investigator electronically record the interview. This will subsequently aid the investigator to fill in gaps in his or her notes at a time that is reasonably contemporaneous with the time of the interview. Although there is no statutory requirement for investigators to record interviews, Canadian courts have expressed a clear preference for recorded (preferably video) statements.73

10 THE PROS AND CONS OF REID

10.1 ADVANTAGES OF REID

The REID interview model is the method of choice for police officers in North America. In speaking with Sergeant Don Macaulay of the Canadian Police College, he said: “I like the REID method because it works and based on my experience I have found it to be very effective.” Similarly, Frank Wozniak advised: “I like the REID method because it provides the investigator with a confident approach to interviewing that is often required to obtain a confession.” Wozniak did acknowledge that some cops, typically “Type A” personalities can go overboard and use REID far

73 (Watkins, Turtle, & Euale, 2011)
too aggressively. He further stated: “With proper training and practice, this should not occur. Unfortunately, not all police officers are properly trained and practiced in the technique and this is where we see investigative errors.” It appears that the police profession perceives many benefits of utilizing this method of training.

10.2 CRITICISMS OF REID

There are many experts that criticize both the effectiveness and the ethics of the REID technique. In the context of the IFA profession, there are three primary concerns with the REID technique that warrant further discussion: 1) The effectiveness of the BAI; 2) Interrogation without evidence; and 3) False confessions.

EFFECTIVENESS OF THE BAI

As investigators, it is intriguing to wonder whether we can create a set of tools that will help us determine whether someone is lying to us. Our fascination is shared by humans generally; we constantly wonder whether people are telling the truth or are lying. Accordingly, it is important to consider whether the BAI taught by REID is in fact effective.

REID references two academic studies to support the effectiveness of the BAI. The first study was done in 1994 utilizing experienced investigators, and the second study was performed in 2002 utilizing college students.

74 (Inbau, Reid, Buckley, & Jayne, Essentials of the Reid Technique - Criminal Interrogation and Confessions, 2005)
In the 1994 study, REID advises that a total of 80 videotaped interviews of actual suspects were viewed by experienced investigators. The investigators were only shown the BAI (15 question) portion of the interview and were not provided with any case information or background about the subjects. REID notes that their average accuracy rates, excluding inconclusive opinions, were 86% for truthful subjects and 83% for deceptive subjects.  

Although the findings appear impressive, researcher Aldert Vrij criticizes them in his 2008 book titled *Detecting Lies and Deceit – Pitfalls and Opportunities*. Vrij points to two problems with REID’s study conducted by Horvath et al. First, the study only utilized five interviewers and four evaluators, which is not a sufficient sample size. Further, these evaluators had years of investigative experience. Simply put, Vrij indicates that the sample size was too small and consisted only of experienced investigators. Second, the ground truth in the study could not be established with certainty. Moreover, it could not be established with certainty that the innocent suspects were truly innocent and the guilty suspects were truly guilty. Accordingly, Vrij discredits the study’s findings.

The second study referenced by REID was a 2002 study performed by researchers Blair and McCamey. The purpose of that study was to determine whether persons without significant experience can be trained to make behaviour assessments of criminal suspects. To investigate this question, 53 college students with no previous training in behaviour analysis were asked to evaluate ten videotaped interviews. Twenty-seven of these students then received six hours of training in behavior symptom analysis and 26 received no additional training. The 53 students were then asked

75 Ibid  
76 (Vrij, *The Behaviour Analysis Interview*, 2008)
to watch the interviews a second time. The students who did not receive any training did not improve their ability to detect deception. However, those who received training significantly increased their accuracy to an average of 82%.

Similar to the 1994 study, many experts are questioning the 2002 study for two primary reasons. First, it is unclear how many truthful versus deceitful interviews were shown to the students. Second, the ground truth for this study was also not established. Again, questions remain as to the reliability of the studies advanced by REID.

There has also been a study done that directly discredits the underpinnings of the BAI. Vrij et al performed an experiment on 40 college students who were asked to lie or tell the truth about an event during a BAI interview. The interviews were coded according to REID’s guidelines. The experimental findings directly opposed the BAI, namely:

_The results showed that, compared to liars, truth-tellers (a) were more naive and evasive when explaining the purpose of the interview [BAI purpose question], and (b) were less likely to name someone who they felt certain did not commit the crime [BAI suspicion question]. Truth-tellers also exhibited more nervous behaviours. The results were consistent with the predictions of the deception literature, and directly opposed to the predictions of BAI._

The findings of the experiment were consistent with other deception testing literature. Numerous studies (as cited by Kassin et al.) have demonstrated that lay people on average are only 54% accurate.

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77 (Masip, Herrero, Garrido, & Barba, 2010)
78 (Vrij, Mann, & Fisher, An Empirical Test of the Behaviour Analysis Interview, 2006)
accurate at detecting deception and that: police investigators; psychiatrists; custom inspectors; and judges perform only slightly, if at all, better.\textsuperscript{79}

Stepping away from these academic studies, consider former U.S. President Bill Clinton’s testimony to the Grand Jury in 1998. According to REID, covering one’s mouth is supposed to be a sign of deception, which Clinton does on the picture on the left below. Similarly, REID teaches that gaze aversion and weak denials are also signs of deception. However, the picture on the right demonstrates strong eye contact and emphatic denial which is inconsistent with REID’s theories. In essence, Clinton looks like he is telling the truth even though it is widely acknowledged that he was lying.

Proponents of REID will argue that their techniques are just one of many “tools in the toolbox.” In essence, the investigator needs to form conclusions on the evidence as a whole. However, published author and experienced police investigator, Kerry Watkins dismissed this notion in his interview with me by stating:

\textsuperscript{79} (Kassin, Appleby, & Perillo, \textit{Interviewing suspects: Practice, science, and future directions}, 2010)
I get so annoyed when police officers say that lie detection techniques are just one of many tools in the toolbox. That doesn’t make any sense to me. Why would you want to use tools that have no scientific merit to them? Would a heart surgeon show up to a surgery with a hammer and a chainsaw? Why should investigators be any different? We should use tools that work and have merit to them.

The impact of what Watkins is saying is clear. The IFA would find him/herself in a precarious position under cross-examination if he or she made conclusions in his or her investigative interview that were based on techniques with questionable scientific merit. As a profession that prides itself on detail and fairness, questions arise as to whether the profession should continue to train its professionals with techniques that are not empirically supported.

INTERROGATION WITHOUT EVIDENCE

Another point of concern with the REID technique is that it permits interrogations to be conducted without evidence. REID advocates:

*The majority of interrogations are conducted under circumstances in which the investigator does not have overwhelming evidence that implicates the suspect – indeed; the decision to conduct an interrogation is in an effort to possibly obtain such evidence. Frequently, prior to an interrogation, the only evidence supporting a suspect’s guilt is circumstantial or behavioural in nature.*

80 (Inbau, Reid, Buckley, & Jayne, Essentials of the Reid Technique - Criminal Interrogation and Confessions, 2005)
This paper states that the IFA should avoid making accusatory statements to suspects with little or no evidence. To do so, he or she would deviate from his or her professional standards of fairness and objectivity. To be fair to REID, one must remember that its model has been written for all types of crime: i.e. drug trafficking and murders included, where perhaps there is little evidence to rely upon. In contrast, IFAs typically deal with evidence-based offences such as fraud. Accordingly, there should be sufficient evidence to rely on prior to considering whether to interrogate a suspect.

FALSE CONFESSIONS

Many REID critics indicate that the REID technique has the risk of producing false confessions because of its overly aggressive and coercive techniques. These critics point to methods suggested by REID such as: overcoming objections; minimizing offences to get admissions; and resisting denials. Although false confessions in Canada are considered rare, in the United States, 25% of individuals subsequently exonerated by DNA evidence had provided a false confession. Many experts are blaming the interrogation tactics advocated by REID as a fundamental reason for the false confessions. Accordingly, these experts are seeking investigative interviewing reform in Canada. These experts are advancing the notion that Canadian police officers should be trained under the PEACE model.

81 (St-Yves, 2009)
82 (Snook & House, An alternative interviewing method, 2008)
11 PEACE MODEL OF INTERVIEWING

In Britain, interrogation models are no longer taught to their law enforcement agencies. Instead, the PEACE approach is the model of choice. The implementation of PEACE was a result of a number of high profile false confession cases comprehensively reviewed by the Home Office. The watershed report effecting change was John Baldwin’s 1992 enquiry. He examined four separate police forces and over 400 hundred interviews. In doing so, he concluded that interviewing was haphazard and not well performed. 83

The response to the growing criticisms came in the development of a new interview model called PEACE, which was developed by: police; lawyers; and psychologists. PEACE is an acronym for: 84

P - Planning and preparation;
E - Engage and explain;
A – Account;
C – Closure; and
E – Evaluation.

The PEACE model is intended to provide a framework for interviewing either witnesses or suspects. Within its framework (specifically the “Account” stage), PEACE allows for the “Conversation Management” approach to be utilized on difficult suspects. This assists the investigator to manage

84 Ibid
the conversation effectively. The model is elaborated on in the following subsections of this report.\textsuperscript{85}

\section*{11.1 PREPARATION AND PLANNING ("P")}

The first stage of PEACE ("P") addresses the preparation and planning of the interview. This is intended to address the legal and logistical issues of the interview. Under logistics, this considers the setup and equipment of the interviewing room. For example, the privacy of the interview room is considered important. Under legal considerations, the interviewer considers how the information obtained from the subject will contribute to the investigation. To do so, the interviewer analyzes the investigative objectives, develops a timeline of key events, and prepares the questions based on the analysis of existing evidence. In addition, the interviewer prepares for potential difficult situations, i.e. the "no comment" interview. The "no comment" interview is one in which the suspect refuses to provide answers to questions.

\section*{ADVERSE CONSEQUENCES ASSOCIATED WITH SILENCE}

It is important to highlight the differences in the laws in Britain and North America as they pertain to suspect silence. This paper suggests that many North-American proponents of PEACE are advocating a method without objectively considering that there are differences in the laws between the UK and North America.

\footnotesize{\textsuperscript{85} The literature available with respect to PEACE is not nearly as extensive as that is available with REID. Accordingly, I have given much more written space to the REID model of interviewing.}
Deslauriers-Varin et al (2011) summarize the difference as follows:

*It is important to note that the UK legal system does not recognize the right to remain silent, as it is the case in the USA and Canada. Hence, the caution made to suspects in the UK informs them that they do not have to say anything but it may, however, harm their defence if they do not mention something that they are questioned on that they later rely on in court (Home Office, 1995). This means that the judge and jury can draw adverse inferences of guilt against a suspect who decides to remain silent or fails to provide relevant facts during police questioning (Gudjohnson, 2003), putting pressure on the suspects to self-incriminate themselves and collaborate with the police.*

The fact that adverse inferences can potentially be drawn from a suspect’s silence in the UK (theoretically making them more inclined to speak than in North America) will be further elaborated on below, but is something the IFA should consider in assessing the relative merits of PEACE as it pertains to the Canadian system.

**11.2 ENGAGE AND EXPLAIN (“E”)**

The interviewer should positively engage the subject in conversation to build rapport in a personalized manner. PEACE advocates that rapport-building is vital to the interviewer’s success. The interviewer is asked to explain the purpose of the interview to the suspect. In doing so, the investigator should provide the relevant legal cautions and should also outline an agenda of the items to be discussed.

86 (Deslauriers-Varin, Lussier, & St.Yves, 2011)
87 Ibid
The purpose of the account stage is to obtain the interviewee’s full account of the incident. The approach can be based on a “Cognitive Interview” approach (basic recall-type questioning) for cooperative suspects or the “Conversation Management” technique for uncooperative subjects. Despite variations between the Cognitive Interview and Conversation Management, the same basic framework is followed.

First, the investigator asks open-ended questions that elicit a free narrative recall of the event. In this stage, the interviewee should do most of the talking and the interviewer should listen patiently. For example, the interviewer may say, “take your mind back to”… giving the subject the time to search his or her memory. It is important that the interviewer not rush to fill gaps of silence.  

Second, the interviewer identifies topics that require further clarification or probing. The purpose of this stage is to clarify points for accuracy. For example, the interviewer may say, “tell me more about what was said.”

Third, the interviewee’s account may be challenged as required. Generally this is done with probing questions consisting of: who, what, when, where, and why? The suspect is challenged on his or her inconsistencies, but the challenging is not aggressive. Instead, it simply provides an opportunity for the suspect to explain and clarify that discrepancy.

88 (Watkins, Turtle, & Euale, 2011)
For suspect interviews, the interviewer must also ask the subject whether he or she committed the crime, and the interviewer may then challenge the subject’s account, if required. For difficult or uncooperative subjects, the “Conversation Management” approach is an additional tool that the investigator can employ.

CONVERSATION MANAGEMENT

The Conversation Management (“CM”) approach is used when suspects become uncooperative. The technique was developed in the 1980’s by psychologist Eric Shepherd so that the interviewer could foster a productive working relationship with the interviewee. Shepherd turned to psychotherapy to develop his interview model because psychotherapists often meet with people who are facing circumstances that are psychologically challenging and stressful. Moreover, the individual is vulnerable and there are important issues at stake.
CM was developed to provide the interviewer the skills to effectively manage difficult subjects while capturing the maximum amount of detail from their accounts. At its core, CM can be broken down into three key elements: 89

1. Reciprocity;
2. RESPONSE; 90 and
3. Management Sequence.

**Reciprocity**

Reciprocity is the concept that if we receive something from another person, then we feel obliged to give something back. Similar to building rapport, reciprocity can serve as a catalyst to productive conversation. An everyday example is if someone says “good morning” to you on the elevator, then you feel obliged to say “good morning” back. 91 The suspect does not have to like you, nor do you have to like the subject. Nevertheless, the gesture establishes a relationship of mutual trust and acceptance. As Shepherd states:

> Skilled use of self-disclosure by the interviewer is essential from first meeting; through to actually working together on the problem that unites the professional and the interviewee. The interviewer in effect trusts the interviewee not to exploit the professional’s approachable behaviour and the thoughts that he or she shares with the interviewee. Similarly, the interviewee recognizes that the interviewer will not exploit the interviewee’s corresponding

89 (Shepherd, 2007)
90 RESPONSE is an acronym explained in the subsequent pages.
91 (Shepherd, 2007)
approachable behaviour and disclosure of his or her thoughts. In addition to creating the conditions for mutual trust, self-disclosure is the basis for fostering a positive psychological bond.\textsuperscript{92}

In summary, reciprocity serves as a foundational tool to build rapport with difficult subjects. It serves as the cornerstone for beginning dialogue.

**RESPONSE**

For a productive working relationship to evolve, the suspect must be shown that the interviewer is mindful that the suspect is a human being with the same rights, concerns and sensitivities as other humans. RESPONSE is a mnemonic memory device to aid the interviewer in remembering key principles.\textsuperscript{93}

- Respect
- Empathy
- Supportiveness
- Positiveness
- Openness
- Non-judgmental attitude
- Straightforward talk
- Equals talking to each other

\textsuperscript{92} Ibid
\textsuperscript{93} (Shepherd, 2007)
Both reciprocity and RESPONSE demonstrate the need for the interviewer to build a positive psychological rapport. Watkins states the following about the importance of building positive rapport: “Playing the ‘tough guy’ or being verbally abusive may make for dramatic portrayals of detective work on television; but in reality it is unlikely to result in productive discussion.”94

**Management Sequence**

The management sequence of CM allows the interviewer to take a more active role in managing the suspect interview. Managing the interview begins with thorough preparation of the interview and through demonstration of the reciprocity and RESPONSE concepts noted above. Interview management involves managing the “Course”, “Conduct” and “Content” of the interview, as follows:

**Course** – This reminds the interviewer to manage the interview according to the PEACE model and ensures that interview objectives are addressed at the relevant and required stages.

**Conduct** – This ensures that both the interviewer and the interviewee are listening to one another and are demonstrating the necessary respect toward one another.

**Content** – During each stage of the PEACE model, the interviewer needs to ensure that the maximum amount of information is elicited and captured. This is important to ensure that the interview objectives have been addressed.

94 (Watkins, Turtle, & Euale, 2011)
11.4 CLOSURE AND EVALUATION (“C” & “E”)

The final step of PEACE ensures that the investigator utilizes a courteous and professional approach to ending the interview. The investigator reviews his or her interview plan to ensure that the main points have been addressed. The interviewee is afforded the opportunity to add further detail or clarify any previous statements. The investigator also explains the next steps in the investigative process as required.

12 THE PROS AND CONS OF PEACE

12.1 ADVANTAGES OF PEACE

The use of PEACE is clearly more subtle in relation to the accusatory approach advocated by REID, and the interrogation methods that preceded its adoption. PEACE’s proponents argue that in spite of its more subtle approach, it is effective. The UK’s confession rates remain consistent at approximately 50% both before and after PEACE’s implementation in 1992.95 Accordingly, many experts in Canada are advocating for its implementation.

However, as previously noted, many of PEACE’s proponents in Canada fail to highlight the legal differences between the UK and Canada in their writings. In contrast, the RCMP does recognize the legal differences between the UK and Canada, and states:

*It must be noted that in the United Kingdom, the 1984 Police and Criminal Evidence Act stipulates that a suspect can be told that if he does not give an*

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account to police, then his silence will be used against him in court. The judge must advise the jury that they can consider the suspect’s silence in deliberations.96

The RCMP notes that it is easier to get suspects to talk in the UK because Canadian courts are not permitted to hold a suspect’s silence against him or her in court. Accordingly, it would be very difficult to standardize interrogation and interviewing proceedings on an international basis.97

12.2 DISADVANTAGES OF PEACE FOR THE IFA

On its surface, PEACE looks like a perfectly suitable model for IFAs to utilize because of its subtle nature. As previously noted, many experts advance the notion that police officers should also be trained under this approach in Canada. Snook et al (2010) are four proponents of investigative interviewing reform in Canada and state the following:

_Some individuals may object to PEACE because it makes no overt attempt to persuade a non-compliant suspect whom the interviewer thinks is guilty to confess. This objection… is in direct opposition to the philosophy underlying PEACE. The goal of PEACE is to move the focus of an interview from obtaining a confession to forming a full and accurate account of the event. By obtaining an initial free narrative and using evidence-based challenges, the interviewer is able to reveal innocence or guilt. That is, an interviewee’s failure to respond truthfully to the evidence that contradicts his or her account can illustrate guilt regardless of whether the interviewee verbalizes that guilt._98

96 [http://www.rcmp-grc.gc.ca/gazette/vol73n1/esubmission-ereportage2-eng.htm](http://www.rcmp-grc.gc.ca/gazette/vol73n1/esubmission-ereportage2-eng.htm)
97 (St-Yves, 2009)
98 (Snook, Eastwood, Stinson, Tedeschini, & House, 2010)
This quote illustrates that the investigator can arrive at the truth whether or not the suspect verbalizes the confession or not; moreover, the interviewee will fail to respond truthfully to contradictory evidence. It is for these reasons that PEACE does not teach its investigators the psychological tools (i.e. interrogatory questioning) that are taught to REID investigators that assist in persuading the suspect to tell the truth.

This paper suggests that PEACE has significantly limited its investigators by not teaching them these types of psychological tools. The CM approach incorporated into PEACE is in fact psychological in nature; however it really only provides the investigator with tools to manage a conversation. CM does not equip the investigator with the ability to effect change or elicit a confession. Given the probative nature of confession evidence, this is a glaring omission. This paper does not suggest that the IFA should become overly focused on obtaining a confession and aggressively presumptive in his or her questioning. Rather, if the evidence is compelling, then the investigator should have the psychological tools that will help him or her arrive at the factual truth, via a confession. Consider the following example that I have taken from one of my real-life suspect interviews to illustrate this point. The example will highlight the PEACE method’s shortcomings.

**Example - IFA Suspect Interview**

Mr. Johnson was a Controller for XYZ Company and was fired from his job for utilizing company funds to pay his wife for work not authorized. In essence, Mr. Johnson was paying his wife with unauthorized company funds because she was assisting with general bookkeeping duties for the company. My co-investigator asked several open-ended questions to Mr. Johnson about the nature of the services for which he paid to his wife. He indicated that they were bookkeeping in nature; ranging from payroll; to accounts payable; and to collections. Mr. Johnson justified the expenses
that were being paid to his wife by saying that XYZ was understaffed and needed the work done anyway.

I watched as my co-investigator questioned Mr. Johnson about each amount paid to his wife and he justified each payment one by one, saying that the work was done. When asked if he obtained authorization to pay his wife with company funds, he said: “I didn’t get around to mentioning it to anyone, things were busy.” My co-investigator also pointed out that his wife was paid excessively; she was paid over $225,000 for only one year of services. Similar to the methods advocated by PEACE, my co-investigator listened to what Mr. Johnson was saying (i.e. his account/his version) and probed and challenged his inconsistencies as required. Nevertheless, Mr. Johnson remained steadfast in his justification, despite becoming increasingly uncomfortable with the questions he was being asked. It appeared that Mr. Johnson was going to continue to justify his position for as long as the interview continued. Under the PEACE approach, its proponents would say that Mr. Johnson would ultimately be found guilty because there is no way that he could justify paying his wife $225,000 for unapproved expenditures. However, this paper suggests that with a proper approach, a confession can be elicited. To illustrate, after watching my colleague continue to point out discrepancies with Mr. Johnson, I changed the subject. The following exchange took place:

**Porter:** Mr. Johnson, weren’t you going through a divorce during this time frame?

**Johnson:** Yes, why?

99 In a prior witness interview, I had learned that Mr. Johnson was going through a divorce. Asking the witnesses aspects about the suspect’s personal life can often equip the investigator with useful knowledge to incorporate into the suspect interview, making it easier to build rapport.
Porter: Well, were you required to pay your ex-wife alimony?

Johnson: You’re not kidding. She is such a demanding person. She took me to the “cleaners” despite having a rich new boyfriend.

Porter: Well, that must have been a heck of a burden for you to go through. I imagine that all those demands put a lot of pressure on you and your current wife to make ends meet. Do you think that some of these pressures are perhaps what has caused the need to pay $225,000 to your wife?

Johnson: Yeah, I think so. (Body language reads as defeated)

Porter: Well, I know you are an honest man Mr. Johnson, but sometimes honest people make mistakes. Times can be pretty tough and financial pressures can get the best of us.

Johnson: I never meant for this to get so out of control.

Porter: Meaning, you didn’t originally anticipate paying your wife $225,000?

Johnson: No, but the bills kept piling up and I had promised myself that I would pay the Company back but I never ever could catch up and things just spun out of control.

Porter: Well, I understand. Everybody makes mistakes. But, we do need to get a better understanding of what has happened, ok?

Johnson: Ok
From that point, Mr. Johnson told us everything. He acknowledged that his wife did some work for the company but nowhere near $225,000 in value. He also acknowledged that he should have asked the owner’s approval prior to paying his wife any money whatsoever.

The story of Mr. Johnson demonstrates the PEACE model’s shortcomings. If the IFA can understand the psychology of the interview room, then he or she is more equipped to arrive at the factual truth. Further, if the investigator can understand the rationalization process that the suspect went through to commit the crime, he or she is more apt to obtain a confession. The confession does not need to be obtained in an aggressive and overly coercive manner. As previously discussed in Section Five, several academic studies suggest that the most successful investigators obtain confessions through: positive rapport; empathy; and effective questioning.

13 REID VS. PEACE

The purpose of this section is to summarize the two models in the context of their applicability to the IFA.

REID equips an investigator with a confident approach to question its suspects. Accordingly, this paper suggests that IFAs should be trained to learn the systematic questioning techniques advanced through REID. Often, this confidence is required in order to elicit a confession. By learning interrogation techniques, the investigator is readied for the psychological aspects of the interview. More specifically, REID allows the suspect to morally save face in order to confess to his or her wrong doing. However, this paper also suggests that the IFA should not rely upon the BAI because its scientific merit is questionable at best. At this time, research has not shown that IFA investigators should be taught lie-detection techniques because these techniques have not been
established as scientifically reliable. Finally, the REID model can be overly aggressive for the corporate environment.

The PEACE approach is subtle and consistent with IFA ethical standards. It teaches its investigators to challenge discrepancies in verbal statements as opposed to focusing on unreliable lie-detection techniques. This approach is congruent with the traditional IFA’s mindset of analytical questioning. The Conversation Management aspect also provides a mechanism that can assist the investigator to address difficult suspects with respect and empathy. Despite these advantages, the model falls short on providing the investigator the psychological tools necessary to elicit a confession when the situation arises. This was highlighted by the example interview of Mr. Johnson.

Going forward, the IFA profession needs to generate its own interview model that incorporates the strengths of both REID and PEACE. Accordingly, it could provide its investigators with standardized training that would truly complete the IFA skillset. However, if both REID and PEACE fall short in certain aspects, where should the profession turn in order to fully develop its own interview model? The answer to this question may be found in Timothy Appleby’s book about Russell Williams called *A New Kind of Monster*. The following is Appleby’s observation of the confession interview:

"Detective Smyth and his colleagues did not invent the interrogative technique that was about to unravel Williams’ web of deceit. Rather, it is largely based on a type of counselling known as motivational interviewing, developed by two American clinical psychologists, Professor William Miller and Stephen Rollnick, who have done much critically acclaimed work with drug addicts. In contrast to many other forms of therapy, motivational interviewing does not confront the client and dwell on his/her failings. Instead, it is nonjudgmental"
and confidence-building, empathizing with the person’s plight, gently pointing out the contrast between who they are and who they want to be, while offering possible solutions. Adapted to a police interrogation room, it translates into a dialogue built upon courtesy and expressions of friendliness and understanding, even warmth.\textsuperscript{100}

In meeting with Appleby, he stated that he learned the concept from Dr. William Marshall; a renowned psychologist with over 380 publications.\textsuperscript{101} Motivational Interviewing has many elements that could assist the IFA in conducting investigative interviews.

\section*{14 MOTIVATIONAL INTERVIEWING ("MI")}

\subsection*{14.1 HISTORICAL ROOTS}

In the 1960s through the 1980s, health practitioners often encouraged patients to make changes through the provision of advice. Practitioners were finding that while this worked with some patients, it produced success rates of only 5-10\%.\textsuperscript{102} It became quite clear that advice giving can make people resistant to change, resulting in non-constructive disagreements. For this reason, Dr. Stephen Miller and Dr. William Miller formally documented the concepts of Motivational Interviewing in 1989.\textsuperscript{103} This is not to say that it took until 1989 for health practitioners to realize that people do not always respond to advice. Accomplished Psychologist Dr. Marshall explained that he had been incorporating many of MI’s concepts into his practice, prior to the Miller and

\textsuperscript{100} (Appleby, 2011)
\textsuperscript{101} I met with Dr. Marshall and read the leading text on Motivational Interviewing. (Miller & Rollnick, \textit{Motivational Interviewing - Second Edition}, 2002).
Rollnick publication. However, MI has since provided a documented framework for the benefit of the entire psychology profession.\footnote{104}

### 14.2 THE SPIRIT OF MI

The current definition of MI is: *“Motivational interviewing is a directive, client-centered counseling style for eliciting behavior change by helping clients to explore and resolve ambivalence.”*\footnote{105} The identification and resolution of ambivalence is the primary focus, and the counsellor is intentionally directive in pursuing this goal. Similar to investigative interviewing, there are many variations in techniques; however Rollnick summarizes the spirit of MI with the following seven concepts:\footnote{106}

1. Motivation to change is elicited from the client, and not imposed from without. The approach does not emphasize coercion, persuasion or constructive confrontation. In contrast, the client’s intrinsic values stimulate behaviour change.

2. It is the client’s task, not the counsellor’s, to articulate and resolve his or her ambivalence. It is the counsellor’s task to facilitate the ambivalence impasse and guide the client toward an acceptable resolution that triggers change.

3. Direct persuasion is not an effective method for resolving ambivalence. Although tempting to persuade the client, the tactics generally increase resistance and diminish the probability for change.

\footnote{102 (Britt, Hudson, & Blampied, 2002)}\footnote{103 (Miller & Rollnick, *Motivational Interviewing - Second Edition*, 2002)}\footnote{104 This is similar to the current state of the IFA profession. The profession has many interviewing experts that could translate their knowledge and experience into a standardized interview model, consistent with the practices of other professions.}\footnote{105 (Rollnick)}\footnote{106 Ibid}
4. The counselling style is generally a quiet and eliciting one. To a counsellor accustomed to giving advice, MI can seem overly passive. However, it is much more effective to approach the client positively than confront the client when he or she is not ready.

5. The counsellor is directive in helping the client to examine and resolve ambivalence. MI does not involve training clients in behavioural coping skills. Instead, the operational assumption in MI is that ambivalence is the primary obstacle to overcome in effecting change.

6. Readiness to change is not a client trait, but a fluctuating product of interpersonal interaction. Resistance and denial are not seen as client behavioural tendencies; instead, they are viewed as feedback for the counsellor to focus on. The resistance is a sign to the therapist that he or she needs to modify his or her approach.

7. The therapeutic relationship is more like a partnership of companionship than expert/recipient roles.

In discussing these seven principles with Dr. Marshall, I asked him whether MI could be modified and utilized by IFAs or police officers. He opined that it absolutely could be taught to investigators. In fact, his colleague taught the approach to a police unit in Los Angeles. The premise was that half of the officers utilized MI while the remaining officers utilized the traditional interrogative aggressive approach. At the end of one year, the results were that MI was three times more effective at eliciting confessions. Additionally, the police officers’ spouses reported an increased job satisfaction from their partners; namely, the officers were more communicative at home and happier in general. Dr. Marshall attributed the increased job satisfaction to the positive nature of MI, which contrasts with other aggressive or cynical interviewing methods.
14.3 FOUR PRINCIPLES OF MI

There are four general principles that are utilized by the interviewer in MI. They are: (1) Express empathy; (2) Develop discrepancy; (3) Roll with resistance; and (4) Support self-efficacy.

EXPRESS EMPATHY

Expressing empathy is often discussed in investigative interview texts, but is often not fully developed. This paper suggests that investigators are aware of the importance of being empathetic; however, they could pay more attention to the difficulties of practicing it.

Empathy is a complex human emotion that is often confused with sympathy. Empathy and sympathy are both feelings; but they are very different. The following could be said about empathy and sympathy:

Sympathy and Empathy are two of the most commonly misunderstood terms in the English language. There are hundreds of people that do not understand the difference between these two terms. They are actually two separate terms that have some important distinctions that everyone should know.

It is fair to state that both sympathy and empathy are acts of feelings. With sympathy though, you feel for the person. You pity or feel sorry for them but you do not necessarily understand what they are actually feeling. As a result of this you tend to have no choice but feel sympathetic for the person because you do not understand the problem or predicament that they are presently having. Empathy on the other hand takes a little more imagination, work, or even

similar situations to gain empathy for someone. It is most often referred to as higher order in the overall complexity of the human emotions.108

The importance of empathy in investigative interviews cannot be overstated. Even if investigators understand its importance, it does not mean that they consistently empathize in their interviews. Practicing empathy can be difficult when facing resource and time pressures, which are amplified when dealing with highly emotional crimes. One can argue that it is easier for investigators to empathize with the victims as opposed to the suspects. However, for the investigator to be truly successful, he or she needs to empathize with all interviewees – including the suspects.

As previously stated, I was afforded the opportunity of meeting with Dr. Scott and Marshall, both of whom meet with incarcerated patients on a frequent basis. They explained the manner in which they speak to prisoners. It was truly remarkable the empathy that was conveyed in their voices. Both men emphasized that prisoners are still human beings; notwithstanding their crimes. They approach their patients without judgment and accordingly they are often successful in generating positive discussions. Investigators would be best served to follow suit.

DEVELOP DISCREPANCY

This principle is based on the notion that change occurs when the interviewee experiences cognitive dissonance. Cognitive dissonance is a psychological term describing the tension of having two conflicting thoughts at the same time, or from engaging in behavior that conflicts with one’s beliefs. Consider the feeling of guilt that many people experience after eating McDonald’s fast food. In turn,

108 (Differencebetweenennt)
we experience corresponding dissonance, because we have engaged in unhealthy behaviour that is inconsistent with an otherwise healthy lifestyle. Dr. Tina Fountain, who is a clinical Psychologist with more than 20 years of practical and teaching experience, explains: “People do not like to live in a dissonant state and want to resolve that tension.” To do so, people find ways to justify or rationalize their behavior. The person that eats the fast food will say something to the effect of, “it is ok I will exercise and make up for this later.”

Fraudsters also need to rationalize their crimes in order to justify their actions. They resolve their cognitive dissonance because they find a way to rationalize their behaviour in order to maintain their self-perceived assessment of being honest individuals, for example: the fraudster that says: “I am underpaid and work hard,” or “I am generally an honest person,” or “I will pay it back later,” etc.

Similarly, a smoker resolves dissonance by saying things such as: “I will quit later”, or “I eat well and am not overweight, I can afford to smoke.”

Similar to a therapist trying to get through to a smoker, an investigator needs to get through to the fraudster. To do so, the interviewer needs to make the suspect feel emotional and in a state of dissonance. As interviewers, we want the suspect to experience anxiety, because it is those emotions that serve as a catalyst to change. When people feel anxious, they are more likely to open up because they are not thinking with the logical aspect of their brain.\(^\text{109}\) Instead, they are thinking

\[^{109}\text{As Dr. Tina Fountain explained, the pre-frontal cortex portion of the brain is responsible for analytical and logical reasoning, whereas the limbic system controls the emotions and feelings of the brain.}\]
emotionally and perhaps irrationally. Essentially, it is beneficial for both counsellors and investigators to see their interviewees in an emotional state.\textsuperscript{110}

The investigator can perpetuate dissonance through the strategic use of evidence and proper questioning. A suspect who denies committing a fraud that he or she committed is able to lie for two reasons: he or she believes that he or she can get away with it; and lying is consistent with how the suspect has minimized or rationalized his or her criminal conduct. As investigators, we challenge the rationalizations and cause dissonance by showing the suspect the evidence against him or her. Accordingly, investigators challenge the suspect’s self-perceived notion of honesty. In challenging that notion, the suspect is placed in an emotional state.

Dissonance must be created subtly. The suspect may otherwise close down in manner, similar to a patient who receives advice-based counselling. Miller and Rollnick suggest that MI is like dancing as opposed to wrestling. They state, “\textit{Motivational interviewing is more like dancing: rather than struggling against each other, the partners move together smoothly. The fact that one of them is}

\begin{flushleft}
\\textsuperscript{110} As discussed in the REID method of interviewing, not all offenders are emotional offenders. For non-emotional (antisocial) offenders, it is best not to try to appeal to their non-existent emotive component. There does not appear to be any empirical data on the percentage of fraudsters that possess an antisocial personality disorder (“APD”). Only 1% of females and 3% of males in the population have APD. With respect to incarcerated individuals, approximately 80% of males and 65% of females have APD. (Statistics obtained from the DSM IV checklist and the American Psychological Association.) Therefore, it seems likely that serious fraudsters do suffer from APD, a famous and recent example being Bernie Madoff. However, many of the individuals who IFAs interview for fraud-type offences are dealt with outside of the criminal arena or the offences aren’t serious enough to result in incarceration. Many of the fraudsters that IFAs interview are emotional offenders.
\end{flushleft}
leading is subtle and is not necessarily apparent to an observer. Good leading is gentle, responsive, and imaginative.” 111 The most effective interviewers are gentle, if not artful.

ROLL WITH RESISTANCE

Miller and Rollnick theorize that the least desirable situation from the standpoint of effecting change is for the counsellor to advocate for change while the client argues against it, making the patient likely to close off. When an interviewer sees resistance, it is a sign to the interviewer that he or she needs to shift his or her approach, at least in the short term. Miller and Rollnick state: “Motivational interviewing is not a combat or even a chess match; it is not about winning and losing. The person is not an opponent to be outsmarted or defeated.” 112 The interviewer needs to be aware of the resistance and roll with it. In the context of an investigation, resistance is a sign to move on to a new area and perhaps revisit the subject again at a later time.

SUPPORT SELF-EFFICACY

According to Miller and Rollnick, MI involves the concept of self-efficacy which refers to a person’s belief in his or own ability to carry out and succeed at a specific task. Change occurs because of the interviewee’s self-belief that he or she is capable of and responsible for directing his or her own outcome. The interviewer creates an environment to effect change; but it is the person’s own belief in change that becomes a self-fulfilling prophecy. 113 In the context of an investigation, the

111 (Miller & Rollnick, Motivational Interviewing - Second Edition, 2002) citing Dr. Jeff Allison
112 Ibid
113 (Miller & Rollnick, Motivational Interviewing - Second Edition, 2002)
investigator creates a positive non-judgmental environment in order to achieve a level of comfort which facilitates a confession.

14.4 INVESTIGATIVE EXAMPLE – MOTIVATIONAL INTERVIEWING

The concepts of MI are simple to understand. We utilize many of these concepts in day-to-day life experience. Despite their simplicity, these concepts are difficult to employ consistently. MI directly opposes human nature, in that humans tend to teach, to provide advice, to persuade, and to counsel.

It is quite possible that the IFA has learned many of the concepts of MI through both practical and life experiences. Consider the earlier example of Mr. Johnson repeatedly denying any wrongdoing, despite having paid $225,000 of unauthorized company funds to his second wife. Johnson struggled with the initial investigative questions because his internal dissonance told him that he was an otherwise honest person. Moreover, the interview questions also revealed to him that he could no longer conceal his actions from others; he had been caught by the investigative team and that revelation created further stress. In that situation, the investigator’s job was to create a new resolution to his dissonance, through empathy. For example, Mr. Johnson was reminded that he was going through a divorce and was facing extreme financial pressures that may have caused his dishonest behavior. In essence, we allowed Mr. Johnson to save face and resolve his dissonance in a new manner. Instead of rationalizing his behavior through deceit, he could eliminate that dissonance through honesty. Through empathy, a non-judgmental environment for confession was created, resulting in a successful outcome.

114 Ibid
**14.5 THE THINGS THAT MI IS NOT**

Miller and Rollnick wrote a 2009 article called *Ten Things that Motivational Interviewing Is Not.*

Three of these “things” should be highlighted for the IFA.

**MI IS NOT A WAY OF TRICKING PEOPLE INTO DOING WHAT THEY DON’T WANT TO DO**

Miller and Rollnick wrote that practitioners sometimes come to MI training expecting to learn a trick for getting people to do what you want them to do, in spite of themselves. To the contrary, MI begins with the assumption and honouring of personal autonomy; that people make their own choices not imposed by another individual. In the context of an investigation, the IFA needs to remember that they are not coercing the suspect, but are exploring the suspect’s ambivalence to change.

**MI IS NOT EASY**

Miller and Rollnick caution that MI is simple, but not easy. Watching a skilful clinician engage in MI is like watching a smoothly flowing conversation in which the client becomes increasingly motivated to change. In practice, MI involves quite a complex set of skills that are used flexibly, responding with agility according to what the interviewee says. Learning MI is like learning to play a musical instrument or to play a complex sport. An initial training program can provide a head start, but real skill in MI is developed through practical experience. The same can be said about investigative interview training. A solid foundation of training is important; however the IFA will get better through practice.

115 (Miller & Rollnick, *Ten Things that Motivational Interviewing Is Not*, 2009)
MI IS NOT WHAT YOU WERE ALREADY DOING

According to Miller and Rollnick, many clinicians believe that they already practice MI without specific training. The authors acknowledge that while some practitioners do recognize MI when seeing it, they are not nearly as effective at reflective listening as they think that they are. Miller and Rollnick state that health practitioners are not as good at counselling as they may believe.

Interestingly enough, Watkins makes the same comment about investigators and their self-perceived interviewing skills in his 2011 textbook *Interviewing and Investigation – Second Edition*. Watkins states that one of the most relevant observations to emerge from interview research is that investigators believe that their interviewing skills are significantly better than they really are. This belief limits their potential for improvement. He further states that questioning suspects is a demanding task, regardless of the interview method employed. Acknowledging one’s limitations and educating oneself about developments in the field will help investigators to meet the challenges that they face.116

15 INTERVIEW TECHNIQUES - SUMMARY

It is important to note that although the REID, PEACE, and MI models are different, they are not entirely dissimilar. For example, all three models emphasize the importance of rapport-building and open-ended questioning. Nevertheless, the three models do have strong philosophical differences. REID is an interrogation model that is accusatory in nature and relies on lie-detection, systematic questioning, and psychological persuasion. PEACE is a fact-based approach that suggests that the

investigator should challenge inconsistencies in the subject’s account, whether that leads to a confession or not. Finally, MI is a psychotherapeutic model that allows the interviewer to effect change through the power of empathy.

Understanding a variety of interview models will help provide investigators with tools that they can use in their practical investigations. It is often easier to understand theoretical models by examining a real-life interview. The remainder of this paper is intended to demonstrate how theory fits into practice.

16 THE WILLIAMS INVESTIGATION

The next two sections analyze the Russell Williams confession interview. This interview, or interviews like it, could serve as a foundation for teaching the next generation of IFAs. The approach taken by the detective relied on evidence, systematic questioning, and empathy. It is an excellent example for the IFA to understand because Col. Williams was an intimidating subject in his intelligence, strength, and power. A brief background of the case is provided for contextual purposes.

16.1 TIMELINE OF KEY EVENTS

On October 22, 2010, Col. Russell Williams received two life sentences for first-degree murder, two 10-year sentences for sexual assault, two 10-year sentences for forcible confinement, as well as 82 one-year sentences for burglary. When Williams was interviewed on February 7, 2010, he was
initially questioned about four criminal offences in the Tweed region. Two of those offences were for sexual assault, and two instances encompassed both sexual assault and murder. The two murder victims were Jessica Lloyd and Corporal Marie-France Comeau.

The key dates are as follows:

1. **September 2009** – During two separate home invasions in Tweed, Ontario, two women are sexually assaulted. Both invasions took place within minutes of Williams’ cottage. Both women were bound to chairs and photographed.

2. **October 29, 2009** - Police authorities search the home of Larry Jones, who is Russell Williams’ neighbour. The police search warrant is attached to this report as *Appendix A*. Mr. Jones is interrogated by police for nearly three hours and eventually cleared as a suspect.

3. **November 25, 2009** – Corporal Marie-France Comeau, a 37 year-old flight attendant at the Canadian Forces Base Trenton (“CFB Trenton”) is found dead in her Brighton, Ontario home.

4. **January 28, 2010** – Jessica Lloyd – a 27 year old Tweed resident is last seen alive. She is reported missing when she fails to show up for work at the Tri-Board Student Transportation Services in Napanee, Ontario.

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117 Tweed is a small town near Kingston Ontario, Canada.
118 At the time of the interview on February 7, 2010, Jessica Lloyd’s body had not been discovered. Also, even though Williams was ultimately charged for burglaries of women’s undergarments, the police had not made the link between the burglaries and the other four offences at the time of Williams’ interview. In fact, many of the burglaries had never been reported to the police and were only discovered based on Williams’ confession and the records that he had maintained of each burglary on his personal computer.
119 (Citizen)
120 The woman who was assaulted on September 17, 2009 is referred to as Jane Doe in court documents to protect her identity. The other woman, Laurie Massicotte, her name is a matter of public record.
5. **February 4, 2010** – The OPP set up an 11-hour road block on Highway 37 near Belleville, Ontario in order to find out information about Lloyd’s disappearance. The police were looking for a tire-tread that matched that of a vehicle seen parked off-road near Lloyd’s on the night of her disappearance. Colonel Williams came to the police’s attention because of the distinctive tire-tread on his SUV. When pulled over, Williams lied to the police and told them that he was in a hurry to get home because he needed to attend to a sick child.\(^{121}\)

6. **February 7 – 2010** – Williams is interviewed in connection with the deaths of Corporal Comeau and Jessica Lloyd, as well as the assaults of Laurie Massicotte and Jane Doe. He confessed and was arrested that same day.

### 16.2 LARRY JONES – VICTIM OF INVESTIGATOR TUNNEL VISION

As indicated earlier, the IFA can learn many lessons by examining what happened to Larry Jones.\(^{122}\) Jones told me that October 29, 2009 was the worst day of his life. He was subjected to nearly three hours of interrogation with respect to two sexual assaults for which he was not responsible. I met with Jones and had a unique opportunity to discuss the interviewee’s experience with the investigator.

Jones explained that he first spoke with the police on September 30, 2009 because the police were canvassing the neighborhood. They were looking for information about two separate sexual assaults that had taken place nearby Jones’ home. The assaults had occurred on September 17\(^{th}\) and 30\(^{th}\), 2009. On September 30\(^{th}\) 2009, the police asked Jones whether he could provide any information

\(^{121}\) (Appleby, 2011)

\(^{122}\) Larry Jones was Russell Williams’ neighbour at the time of the investigation.
about unusual sightings earlier that same day. Jones had nothing to offer the police. Interestingly enough, a police officer had also knocked on Williams’ door; Williams was not home. The officer asked Jones: “Who lives there [next door]?”, and Jones told him, “Russ Williams”. The cop then said, “Yeah, I see that on the mailbox. Same name as the commander of CFB Trenton.” To which Jones replied: “No, that is the Russ Williams of CFB Trenton, that’s him.” The police officer then said: “Oh, really you’re not kidding. Well then, I guess we don’t have to look at him.”

The comment made by the police officer suggested that Colonel Williams was beyond reproach. And to many, his professional reputation afforded him such status. However, this illustrates how investigators can suffer from tunnel vision. Tunnel vision can be very detrimental to the investigator because it may cause the investigator to make erroneous conclusions. Tunnel vision has contributed significantly to past wrongful conviction cases in Canada, such as Guy Paul Morin and Thomas Sophonow. In his examination of past investigative failures, Bruce MacFarlane Q.C. noted that the intense pressure and public outrage can often cause the investigative team to make costly mistakes, as follows:

_Tunnel vision sometimes sets in. The investigative team focuses prematurely, resulting in the arrest and prosecution of a suspect against whom there is some evidence, while other leads and potential lines of investigation go unexplored. It is now clear that this is precisely what occurred in the cases of Morin and Sophonow._

123 (MacFarlane, 2006)
Dr. Tina Fountain concurs that investigator tunnel vision is a form of cognitive dissonance. The dissonance occurs because the investigator struggles to process innocent responses because those types of responses are incompatible with the investigator’s presumption of guilt. If the investigator is in a state of dissonance, his or her sense of logic and reasoning can be overridden by emotion. This is a dangerous position for an investigator, who needs to be open to all available alternatives in conducting an interview. If not, the investigator is prone to investigative mistakes or biased findings. With client pressures, and impending deadlines, maintaining objectivity can be easier said than done.

THE INTERROGATION OF LARRY JONES

On October 29, 2011, the police visited Mr. Jones again. On that day, Mr. Jones advised that he came home to approximately 30 police officers “ransacking” his home. The warrants (see Appendix A) stated that the police were looking for things such as: women’s underwear; white shoes; pornographic photos; and computer devices. In complete shock, Mr. Jones found himself in the back of a police car. He was extremely stressed, which concerned him because he had recently undergone a triple bypass heart surgery. Mr. Jones recalls one of the cops saying to him, “We’ve been investigating you for three weeks, sir. We know all about you. We’ve got a real good tip sir.”

Mr. Jones was led into the OPP station and left alone in an interrogation room that he described to be “90 degrees Fahrenheit.” He was left alone for approximately ten minutes. Mr. Jones described the next few hours as the worst of his life. The Detective walked into the room and shook Mr. Jones’ hand and asked him about his background. Mr. Jones had been a Dairy Farmer and told the cop accordingly. The cop responded with, “oh really, I was a dairy farmer too.” Immediately, Mr. Jones did not trust the Detective because he could tell that the Detective’s small, slender hands were
not those of a former Dairy Farmer. The lesson for the IFA is clear: rapport-building is a skill and if it is not done truthfully, things can go awry.

According to Mr. Jones, the Detective asked the following questions and made the following statements:

1. The Detective began by telling a story that a man had denied robbing a gas station but they later found a gas cannister in his vehicle. The man almost went to jail for arson because he hadn’t originally been truthful about the gas robbery. (It appears that the Detective was trying to make Mr. Jones feel nervous; the story only confused him).

2. The Detective said that Mr. Jones might as well tell the truth, and be forthcoming. The cop said: “it is not a very serious crime. It is not like you raped her.”

3. He asked Mr. Jones three times: “If you were the person who broke into Laurie Massicotte’s house on September 30, and tied her up and sexually assaulted her – if you were – would you be guilty.” To which Mr. Jones kept repeating, “I said no, I wasn’t there.”

4. The Detective asked whether Mr. Jones masturbated and told him that it was a sin to do so.

5. The Detective asked whether Mr. Jones was beaten as a child.

6. The Detective asked Mr. Jones about his sex life with his wife.

The questions persisted and were highly accusatory. The second question above is an example of a problematic question because the police officer appears to be minimizing the legal consequences of the offence. It is quite possible that the Detective who conducted the interview was not properly trained. Experienced investigator Frank Wozniak told me that Mr. Jones’ story does not surprise him: “A lot of cops are type A personalities and are guilt presumptive in nature and are not properly
trained to conduct a proper interrogation.” Wozniak also stated that some police officers believe that accusing innocent subjects is simply “just a cost of doing business.”

Although it can be understood that police officers are not perfect, what happened to Mr. Jones affected him significantly and could have been avoided with proper objectivity. The only evidence that the police had on Mr. Jones was circumstantial at best: a month after the attack, Laurie Massicotte called the police and said that she may have recognized Mr. Jones’ voice as her attacker. Mr. Jones told me that he has since learned that Massicotte’s ex-boyfriend told her to blame Mr. Jones because of a vendetta that her ex-boyfriend had against Mr. Jones. Based on the potential voice recognition of Mr. Jones, the police were able to obtain a search warrant from a newly appointed Justice of the Peace. Mr. Jones explains that “it appears that the police ignored the fact that Laurie’s initial description of her attacker was: a man between the age of 36-42 years old, hairless, and had a six-pack. This certainly doesn’t describe me. I am a pot-bellied 65 year old hairy man.”

The OPP were not able to provide me with its version of the events because they are under a restriction prohibiting discussion of this case. Accordingly, it is possible that Mr. Jones’ account of what occurred is biased. Nevertheless, Mr. Jones was deeply affected by what transpired. His granddaughters were ridiculed at school and were reduced to tears. In addition, Mr. Jones’ reputation may never fully recover. The general public often judges people that are accused of offences, regardless of their guilt or innocence. The lesson for the IFA is clear. Tunnel vision is extremely dangerous and the investigator must remain open and objective in carrying out investigations. The investigator needs to consider all evidence when preparing to interview a suspect.
16.3 WILLIAMS UNDER SURVEILLANCE

The events leading to Williams becoming a suspect are described in this section. Jessica Lloyd did not report to work on January 29, 2010 and had been last sighted on the previous evening. On the night of her disappearance, there had been two sightings of an SUV parked on the far northern edge of Lloyd’s property. The vehicle’s make was unknown; but using the tire tracks left behind, specialists were able to measure the width of the wheels. The information was fed through a provincial database, and approximately 450 vehicles that might be the suspect one showed up. The list included, but was not limited to: Toyota 4Runners (1996-2002), Jeep Cherokees (1999-2004), and Nissan Pathfinders (1998-99).\textsuperscript{124}

Of the 450 potential matches, police had traced 178 and were still in the process of interviewing passersby at a roadblock on February 4, 2010. Constable Alexander and his partners were carrying a tape measure and photo of the tire-tread marks. OPP Forensic specialists had magnified the tread-mark and pasted a photo on a sheet of cardboard, along with an estimate of the wheel width.\textsuperscript{125}

Timothy Appleby’s book describes how Williams became a suspect:

\textit{And now came what proved to be the moment of truth. The roadblock was set up shortly before seven o’clock, and one of the very first vehicles to pull up, within a minute or two, was a 2001 silver-coloured Nissan Pathfinder piloted by the Air Force Colonel who commanded the 8 Wing military base in Trenton. Still in his crisp blue uniform, he was heading toward his home in Tweed and was in a hurry… telling [Constable] Alexander that he was rushing home to take care of a sick child… He was politely quizzed by Constable Russ}

\textsuperscript{124} (Appleby, 2011)
\textsuperscript{125} Ibid
Alexander... He looked at Williams’ Pathfinder...particularly notable was the front left tire, which appeared to closely resemble one of the telltale tracks. Alexander said nothing, filled out his questionnaire, and with a nod and a wave the Colonel was soon on his way up Highway 37, heading toward his lakeside hide-away on Cosy Cove Lane.

But back at the roadblock, an animated discussion was taking place about whether to pull the alarm cord and place surveillance on the Colonel. Alexander knew who Williams was – he was a distinguished guy, the boss of 8 Wing – and he made the case that even though his tires seemed to match the tracks, it was probably a coincidence. If anyone would be above suspicion, it surely must be Colonel Williams. One of the Belleville officers vigorously disagreed, and after an argument Alexander relented. So as Williams drove up the highway, Alexander was speaking into his cell phone, his tone urgent and insistent. ‘Surveillance,’ he was saying. ‘Now, right now.’\[26\]
Three days later, the childless Col. Williams was called by the police to answer a few questions. He walked into the police station in Ottawa wearing a blue golf shirt, hiking boots and a pair of jeans. He entered the interrogation room appearing comfortable and smiled as he sat down.

Unbeknownst to Williams, things were about to change. The world as he knew it would never be the same.

17 THE CONFESSION INTERVIEW

Although this section analyzes the Williams interview, the IFA is best served by watching its footage. The interview is available through CBC’s “The Fifth Estate” and is located on its website. A redacted interview transcript is also available on-line.

In analyzing the interview, it is important to note that it is extremely difficult to analyze the interview against a single interview model. Interviews are dynamic, interactive, and require the investigator to be flexible in his or her approach. The interviewer’s personal style also contributes to some of the questioning methods.

127 (CBC - The Fifth Estate)
It is also difficult to attribute certain aspects to only one model because there are some inherent consistencies amongst REID, PEACE, and MI. For example, all three models suggest the benefits of open-ended questions and rapport-building. Accordingly, in analyzing this interview, it is entirely possible that all three methods could have produced a confession. The purpose of the analysis is not to categorize the interview against one particular model. Instead, the analysis is intended to illustrate principles that the IFA can utilize in practice.

The key factors that led to Williams’ confession were: 1) evidence; 2) systematic questioning (such as REID); and 3) the principles of MI (subtle not coercive). Smyth’s execution was sensational and one that many investigators should study.

17.1 RAPPORT-BUILDING

The following examples are instances where Detective Smyth built rapport with Williams. Smyth began the interview by thanking Russell for coming in.

_D/Sgt. Smyth_: Alright…Russell I appreciate you coming in. An investigation like this I mean I’m sure you can appreciate it’s been big news uh…

It is interesting to note that Smyth thanks Williams by using his first name, instead of referring to him as Colonel. As Dr. Marshall stated, “By calling him Russell, he is setting up a buddy-buddy relationship which is consistent with the spirit of MI.” In essence, Smyth is establishing a collegial relationship with Williams, removing any imbalance of power, right from the outset.
The Detective also begins candidly and set the expectations for Williams, demonstrating that he was respectful of Williams’ time.129

**D/SGT. SMYTH:** We’re going to do a pretty thorough interview today.

**WILLIAMS:** Okay

**D/SGT. SMYTH:** Okay, the reason for that is because the last thing we want is to be calling people back again and again and again okay.

**WILLIAMS:** Mmm hmm

**D/SGT. SMYTH:** So what we’re going to do is we’re going to go over a number of things and

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** I’m going to explain what all those are to you.

**WILLIAMS:** Okay

Smyth follows that up by building further rapport, first by offering Williams a coffee and then by explaining that he is going to treat Williams with respect.

**D/SGT. SMYTH:** Okay, I’m a big coffee guy. I don’t know if you’re a coffee guy or not?

**WILLIAMS:** I am a coffee guy actually yeah.

129 This is similar to PEACE which advocates that the investigator provide the suspect with an expectation of the interview process.
D/SGT. SMYTH: Alright, and again, like I said, this interview’s going to be very thorough.

D/SGT. SMYTH: But again, I have a simple rule when I talk to people. I’m sure you’re the same way. I treat people everybody with respect and

WILLIAMS: Yeah

D/SGT. SMYTH: I’ll ask that you do the same for me, so what we’re going to do is we’re going to start off by going through what your rights are okay… just like everybody else.

All of the above are examples of how Smyth established rapport with Williams. By generating rapport, the investigator allowed the interview to commence positively. Positive rapport is essential in stimulating productive discussion.

17.2 LEGAL IMPLICATIONS

As previously noted, confessions must be obtained voluntarily in order for them to be ruled admissible. Accordingly, Smyth explained to Williams that he is a person in authority and informed Williams that he was not under arrest and could leave at any point. Further, he notified Williams of his right to counsel. Smyth stated the following:

D/SGT. SMYTH: Basically in Canada as you know I’m sure is we all have our rights guaranteed under the Charter of Rights and Freedoms... now Russell just to avoid any confusion cause people do get confused when they’re talked to by the police is that... you’re obviously not under arrest for today okay... anytime you feel you want to leave here you feel free to do so… The door’s not locked.

WILLIAMS: Yeah
D/SGT. SMYTH: If there’s anything that comes up in our interview today Russell that you feel you want to talk to a lawyer about... you just let me know.... you don’t have to speak to me today... and the reason for that is because the law considers me to be a person in authority.

Smyth explained Williams’ rights to him, clearly and slowly. By doing so, Smyth was adhering to the parameters of the law. In addition, Smyth was forthright with Williams, which can further assist in establishing rapport.

17.3 FREE-ACCOUNT QUESTIONING

Smyth then began the investigative portion of the interview. Consistent with both REID and PEACE, Williams was asked to provide an uninterrupted account of his whereabouts during the time of the murders. To do so, the Detective asked him general questions about his work and his schedule. Smyth then moved to the circumstances around the time of the first murder, at which time Williams began to appear uncomfortable. At no point did Smyth challenge Williams’ account.
Smyth then asked Williams about how he learned that Corporal Marie-France Comeau had been killed. Similar to Bill Clinton’s evasive denials, Williams didn’t refer to Comeau by name and called her “one of his people.” He said:

**WILLIAMS:** So I got an email...I want to say first thing in the morning because I had just come back from Ottawa. I was in Ottawa... I can’t remember what day of the week we’re talking about but yeah... obviously [when] one of your people gets killed it gets your attention.

Smyth then asked Williams about how he knew Comeau. Williams lied to Smyth and explained that he had only met her once and this was on a past business flight. Williams fumbled his words in explaining their only encounter:

**WILLIAMS:** Uh, I can’t even remember I think it was a one day trip uh I did a number of trips uh in Canada transporting um our um you know troops for the first leg out of Edmonton uh and we tend to hop-scotch them across uh until they get into [unintelligible] so anyway I, I can’t remember which trip it was but uh I did a number of them out to Edmonton just to pick up the troops bring them to Trenton and then uh put a fresh crew on and uh cause we fly out and back in the same day so pushing the edge of that uh fresh crew on and continue on after a couple hour delay.

Clearly, Williams was sputtering and having great difficulty communicating. The Detective didn’t interrupt him and kept nodding and saying things like “okay”. Smyth then asked Williams to elaborate on the email notification that had notified him about Comeau’s death. Given the gravity of

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130 As previously stated, lie-detection methods are not always consistent or reliable. However, in this case, there were some gestures and statements that are consistent with REID’s lie-detection methods.
the news, one would expect a base commander to have a vivid recollection, especially a man as intelligent as Williams. Here is what Williams said:

**Williams**: Well, I can’t remember what again what day that uh the message came in just a second um no I can’t remember what day the day of the week but I um let me just think there was all a bunch of activity uh spun up as a result obviously [sighs] no I, I can’t remember the day of the week um I’m just trying to think through the news reports I read no I, I’m sorry I can’t remember what day from act was that the um the MPs [military police] had learnt uh of her death I think quite a bit after her body had been discovered... I had been in Ottawa earlier in the week uh for some meetings over in uh in Gatineau for one of the um [unintelligible] C17 [Globemaster aircraft] acquisitions, I was a project director when I was here in Ottawa for that so just some follow up stuff on that... so I had been here um at some point in that week again I can’t remember how the days all fell together but um I seem to remember that I got this word shortly after having come back from Ottawa I, seems to me it was the same week.”

It was clear that Williams was experiencing stress-induced dissonance and was having a difficult time articulating his responses. Just moments earlier, Williams had acknowledged that the email had gotten his attention. Clearly, he was having difficulty communicating any type of plausible recollection of events. Nevertheless, the Detective allowed him to talk and not once challenged him. As both REID and PEACE advocate, challenging the witness too early can result in confrontation and cause the interview to be shut-down abruptly.
After that exchange, Smyth asked Williams for DNA and footwear samples so that he could eliminate Williams as a suspect. Similar to what MI suggests, Detective Smyth asked Williams for this evidence in a collegial manner, as follows:

**D/SGT. SMYTH:** What would you be willing to give me today to help me move past you in this investigation?

**WILLIAMS:** What do you need?

**D/SGT. SMYTH:** Well do you want to supply things like fingerprints, blood samples?

**WILLIAMS:** Sure

**D/SGT. SMYTH:** Okay um footwear impressions?

**WILLIAMS:** Yeah

It is interesting to observe that Smyth asked Williams for his assistance; notwithstanding that the evidence Williams provided was self-incriminating. In fact, Smyth even asked Williams whether he wanted to provide this evidence. Accordingly, Smyth was continuing to maintain rapport with Williams during such a critical juncture of the interview. In doing so, Smyth also allowed Williams the autonomy to make his own decisions. The words that Smyth chose to utilize proved to be very effective as Williams complied with Smyth’s request.

After Williams provided the DNA samples and footwear impressions, he was left alone for several minutes. When Smyth returned, Williams demonstrated clear concern. He asked Smyth to be
discreet with the sample evidence, because if the military knew that he was a suspect, then his reputation would be tarnished. Smyth responded to Williams with a “white lie” by telling Williams that they were interviewing him on a Sunday afternoon because it was more discreet than any other day. In reality, the OPP was not concerned about discretion for Williams; instead, they were urgently trying to locate Jessica Lloyd’s body.

17.5 SETTING THE TRAP

Nearly one hour into the interview and Smyth had not been the least bit confrontational with Williams. Smyth had not challenged Williams about the lie that he had told the roadblock officer about having to rush home to attend to a sick child. In addition, Smyth had not confronted Williams about the matching tire-tread. Instead, Smyth continued to build further rapport with the Colonel and left Williams’ account to be uninterrupted.

What took place next was worth noting. Smyth provided Williams the opportunity to explain whether he would be concerned with the results of the DNA examination. Exactly as REID suggests, Smyth asked Williams a “bait question”, as follows:

D/SGT. SMYTH: Now that you’ve had some time to…and I know we’ve been throwing a lot of things at you here but now that you’ve had some time to think about things, is there anything that you’re concerned about that Buccal swab matching in any of those four residences?

Smyth asked this question for two reasons. First, he wanted to see if Williams would hesitate and consider recanting his purported lack of knowledge of the victims. Internally, Williams likely experienced extreme dissonance and corresponding anxiety; he most certainly recognized his
precarious position. Second, it was important for Smyth to ask Williams the bait question prior to introducing any evidence. More specifically, if Smyth had shown Williams a DNA match prior to this question, Williams could have concocted a lie to refute such evidence. For example, Williams could have said, “well, I didn’t want anyone to know, but the Corporal and I were having an affair. That is why my DNA is there.”

After Williams denied any concern about potential DNA matches, Smyth presented Williams a few more “bait” questions in a docile, non-challenging tone:

**D/SGT. SMYTH:** But another thing can often happen in cases like this is that people become concerned about things like extramarital affairs.

**Williams:** Mm hmm

**D/SGT. SMYTH:** Indiscretions along those lines...

**Williams:** Mm hmm

Interestingly enough, Williams was listening to Detective Smyth and was not making any emphatic denials. REID advocates that Williams was demonstrating the behavioural tendencies of a deceitful subject as he considered the plausibility of what Smyth presented. Williams appeared reserved as the following exchange took place:

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131 In practical terms, the DNA evidence that Williams provided the OPP would take a few days to turn around and examine. However, sources have told me that the OPP had previously obtained Williams’ DNA through investigative surveillance (prior to the day of the interview). Nevertheless, even if the OPP had not had Williams’ DNA prior to that interview, the bait question is appropriate. It was important to see if Williams would hesitate or decide to lie further to the police.

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D/SGT. SMYTH: Is there any contact that you may have had with any of those four (4) women that you may not want your wife to be aware of. Anything like that that we should know about to try and uh explain why if your DNA is found?

WILLIAMS: (inhaling deeply)

D/SGT. SMYTH: To help us understand why it may be there.

WILLIAMS: Absolutely not (sighs)

D/SGT. SMYTH: Can you think of any reason why we would find your DNA in any of those residences?

WILLIAMS: No

Although Williams did refute the bait question advanced by Smyth, he was brief and reserved in answering Smyth’s questions. REID would suggest that this is consistent with a deceitful subject.

17.6 SWITCHING GEARS

Again, the Detective continued to provide Williams with every opportunity to provide an explanation. Internally, Williams’ brain was on cognitive overload. As Dr. Tina Fountain explains, “cognitive load is the demand made by the environment on memory and attention. Having to contend with lies increases cognitive load and can over-tax the brain; interfering with memory and attention to detail.” Accordingly, Smyth needed to be mindful not to push Williams too far with his questioning, in order to avoid a complete shutdown by Williams. Detective Smyth then switched gears. He asked Williams a few questions about his home renovations (which were not relevant), and then proceeded to ask Williams about the make of his car tires.
**D/SGT. SMYTH:** Just want to make sure I'm covering all the bases here; okay what kind of tires do you have on your Pathfinder?

**WILLIAMS:** I think um I think they’re Toyo.

**D/SGT. SMYTH:** Okay but do you have a brand name or

**WILLIAMS:** I that is that

**D/SGT. SMYTH:** Make

**WILLIAMS:** I don’t sorry the make is Toyo.

As this was occurring, Williams’ mind was likely racing in attempting to track everything that was being asked and stated. The Detective wanted Williams’ mind to be on overdrive; however, he didn’t want a direct confrontation. If such a confrontation occurred prematurely, that could spell the end of the interview.

From there, Detective Smyth switched gears again. He proceeded to ask Williams about his swipe card access at CFB Trenton during the week of November 23rd (the week of Comeau’s murder). In doing so, he made sure Williams was aware that he was not working alone on that particular Sunday.

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** One of the things that one of our investigators did is they made a call while I was talking to you because we’re trying to work through that week of the twenty-third (23rd) of November.

**WILLIAMS:** Okay

**D/SGT. SMYTH:** Twenty-third (23rd) being the Monday uh twenty-fourth (24th) being the Tuesday.
WILLIAMS: Okay

D/SGT. SMYTH: What they’ve told us is that, and I want to make sure I get this right is that on the twenty-third (23rd) your swipe card was being used at the base okay.

WILLIAMS: Okay

D/SGT. SMYTH: On Tuesday the twenty-fourth (24th) there was no use of your swipe card.

WILLIAMS: Okay

D/SGT. SMYTH: Okay and then on the following days, the Wednesday Thursday, Friday there was what appeared to be average activity of [use]

WILLIAMS: Okay

Again, this line of questioning likely caused Williams further stress. He would be wondering, who else is working on this investigation? What did the police say to the military? Does the military know that I am a suspect? As Williams’ mind was racing, Detective Smyth asked Williams why his swipe card had not been used the day of Comeau’s murder. To which Williams explained that he was in Ottawa having dinner with his wife. The Detective asked Williams twice what they had for dinner; however Williams could not remember. He couldn’t remember who paid either. One thing he did remember however, was kissing his wife. He stated, “And I you know (sic) kissed my wife goodbye and headed back to Tweed.” For Williams to remember kissing his wife at such a pivotal juncture of the interview was a sign of things to come; perhaps the Detective took note.
17.7 THE TIRE-TRACKS

Up until this point, the Detective had not shown Williams any evidence. He had not let Williams know that his tire-tracks were consistent with a vehicle spotted off-road at Jessica Lloyd’s on the night of her murder. That was about to change. However, prior to showing Williams a “card”, he once again asked Williams a “bait question” and allowed Williams an opportunity to provide an explanation. He asked Williams whether there was any reason for his vehicle to have driven off the road on the night of Lloyd’s murder, as follows:

D/SGT. SMYTH: Okay so I want you to rack your brain here, this is important.

WILLIAMS: Yeah yeah

D/SGT. SMYTH: So is there anything you can remember doing that would cause you to drive off the road?

WILLIAMS: No

D/SGT. SMYTH: At that section of roadway?

WILLIAMS: No that’s the early part of the highway and I’m just heading out it’s about thirty (30) minutes from there to uh no probably twenty (20) from there to my house.

D/SGT. SMYTH: Okay, would it surprise you to know that when the CSI officers were looking around her [Lloyd’s] property that they identified a set of tire tracks to the north of her property that looks as if a vehicle left the road?

WILLIAMS: Mm hmm

D/SGT. SMYTH: And drove along the north tree line of Jessica Lloyd’s property okay
If one reads carefully into the transcript above, Williams listened attentively to what the Detective said, rather than protesting his innocence. REID suggests that these are the behaviour signs of a deceptive subject. In fact, Williams listened as the Detective went through the process of how tire-tracks are matched to crime scenes and explained that tire-tracks can be a major source of evidence for the police. Once again, Williams did not protest his innocence. Consider the following exchange that demonstrates Williams listening attentively to Smyth:

**D/SGT. SMYTH:** Shortly after this investigation started, they identified those tires as the same tires on your Pathfinder.

**WILLIAMS:** Really

**D/SGT. SMYTH:** Yeah

**WILLIAMS:** Okay

Again, the Detective listened attentively to Williams and provided him with ample opportunity to provide an explanation. He then asked Williams again if his vehicle had been off that road, to which Williams replied, “No I was not off that road.” Again, the Detective sat and listened to Williams’ lies. The best interviewers know how important it is to listen. One could definitely argue that this is easier said than done.

**17.8 A TIME OF PERIL**

It was time for the Detective to check with his investigative team. Or perhaps, it was time to give Williams some time alone? Either way, the Detective didn’t just stand up and walk out. What was
about to take place was very interesting. Consistent with MI, the Detective “rolled with resistance” and never once challenged the Colonel’s story. In the spirit of collegiality, he built further rapport with Williams by asking the Colonel whether he had any questions for him. Then, in a gentle tone, he reminded Williams of the enormity of the investigation. The exchange took place as follows:

D/SGT. SMYTH: Okay alright do you have any questions for me right now?

WILLIAMS: No

D/SGT. SMYTH: Okay I’m just going to step out and see how things are going okay?

WILLIAMS: Okay

D/SGT. SMYTH: I mean it is a Sunday but there’s probably sixty (60) seventy (70) people working on this file so there’s

WILLIAMS: Mm hmm

D/SGT. SMYTH: A lot of things happening.

WILLIAMS: Sure

D/SGT. SMYTH: So let me go out and see what’s happening and then I’ll come back in and we’ll hopefully continue okay.

Exactly what was going through Williams’ mind we will likely never know. One thing is for certain; his mind was racing, whilst the clock was not.
Detective Smyth re-entered the room and once again addressed Williams with respect. In fact, he specifically addressed the notion of respect and identified further discrepancy that needed to be resolved. The following exchange took place:

**D/SGT. SMYTH:** I told you when I came in here that I’ll treat you with respect and I’ve asked you to do the same for me, we talked about the whole idea of how we’ve approached you here okay, trying to be as discreet as possible.

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** Okay but the problem is Russell, every time I walk out of this room there’s another issue that comes up okay and it’s not issues that point away from you, it’s issues that point at you okay and I want you to see what I mean.

From there, Smyth went on to explain to Williams that the science of footwear impressions is similar to that of fingerprints. He then explained a major hurdle that required an explanation from Williams.

**D/SGT. SMYTH:** These [boot prints] are identical. Okay your vehicle drove up the side of Jessica Lloyd’s house. Your boots walked to the back of Jessica Lloyd’s house on the evening of the twenty-eighth (28th) and twenty-ninth (29th) of January okay. You want discretion, we need to have some honesty okay, because this is getting out of control really fast Russell. Okay really really fast.

Similar to MI, Detective Smyth was “developing discrepancies” within Williams’ story which created increased anxiety for Williams.
17.10 THE DIRECT CONFRONTATION

Consistent with REID, when the investigator is certain that the suspect is guilty of something, he needs to convey that confidence. That is exactly what Smyth did in directly confronting Williams:

D/SGT. SMYTH: You and I both know you were at Jessica Lloyd’s house and I need to know why.

The confidence that Smyth demonstrated was critical. Smyth needed to show Williams that it was the Detective who was in control. What IFAs can glean from Smyth’s statement is that it was interrogatory in nature, notwithstanding its subtle delivery.

Despite Smyth’s confidence, Williams chose not to elaborate and stated, “Well I don’t know what to say it’s um.” Consistent with MI, Smyth “rolled with the resistance” and did not provoke confrontation. Instead, he took the opportunity to seize onto one of Williams’ emotive components – his wife. To do so, was both tactful and necessary.

17.11 WHAT ABOUT YOUR WIFE?

Dr. Duncan Scott is a renowned Psychiatrist who has met with Russell Williams on several occasions, and although his conversations with Williams were confidential, he was able to comment on the Williams confession interview. Dr. Scott advised that in order for the confession to be obtained, Williams needed to be in a dissonant state. More specifically, Williams needed to sense that his criminal actions could no longer be concealed from his wife; a person for whom Williams cares deeply. That is exactly what the Detective did:
D/SGT. SMYTH: Right now because there’s a warrant being executed at your residence in Ottawa okay so your wife now knows what’s going on there’s a search warrant being executed at the residence in Tweed and your vehicle’s been seized okay, you and I both know they’re going to find evidence that links you to these situations okay, you and I both know that the unknown offender male DNA on Marie-France Comeau’s body is going to be matched to you quite possibly before the evening’s over alright. This is a major investigation; the Center of Forensic Science is on call twenty-four (24) hours a day helping us with this.

Dr. Scott explained that Williams is not a psychopath and does in fact have emotional attachments. Of primary importance is the love that he feels for his wife. Smyth’s question exposed Williams’ most emotive component and that was pivotal to the ensuing confession.

17.12 THE PASSIVE STATE

Williams looked defeated after the Detective’s questions. His body language had become increasingly passive, exactly as REID suggests. His body language looked as follows:

Detective Smyth clearly recognized the change in Williams’ body language and accordingly needed to procure the suspect’s waning attention span – also consistent with REID’s interview model.
Smyth did so by stating Williams’ name on more than one occasion; however, Smyth also allowed for periods of silence (19 seconds) in order not to overwhelm Williams. The following exchange took place:

**WILLIAMS:** (sighs)

**D/SGT. SMYTH:** and Russell

(No conversation for 19 seconds]

**D/SGT. SMYTH:** Russell

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** Listen to me for a second okay, when that evidence comes in and that DNA matches, when that phone rings and somebody knocks on this door.

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** Your credibility is gone okay because this is how credibility works alright and I know you’re an intelligent person and you probably don’t need to hear this explanation, but I also know your mind’s racing right now okay’ cause I sat across a lot of people in your position over the years.

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** Okay the bottom line is that as soon as we get that piece of evidence that solidifies it…

**WILLIAMS:** Mm hmm

**D/SGT. SMYTH:** DNA. Okay as soon as the expert in footwear impressions and the expert in tire impressions calls me, yes I examined those and they’re…
WILLIAMS: Mm hmm

D/SGT. SMYTH: A match

WILLIAMS: Mm hmm

Consistent with MI, Smyth developed further discrepancies in relation to Williams’ earlier testimony of lies. In essence, he prepared Williams for change. What was perhaps most interesting is that even though Williams was in an extremely dissonant state, he may have viewed Smyth as his only friend in the world.

17.13 “CALL ME RUSS, PLEASE”

As previously stated, in meeting with Dr. Marshall, he advised me that the confession of Russell Williams appeared to be similar to a collegial psychotherapeutic counselling session. It was similar to MI because Smyth invoked change within Williams without being coercive or aggressive in nature. He continued to treat Williams with respect throughout the entire interview. This respect served as the cornerstone of the rapport that had been established between Williams and Smyth. Once again, this is easier said than done when facing a murderer and rapist.

Smyth then provided Williams an opportunity to “save face” by providing Williams a different avenue to resolve his dissonant state. To do so, he provided Williams the opportunity to seize control of the situation and do the honourable thing. The following exchange took place:

D/SGT. SMYTH: What are we going to do Russell you know there’s only one option, what other option is there?

WILLIAMS: What’s the option?
D/SGT. SMYTH: Well I don’t think you want the cold-blooded psychopath option. I might be wrong ‘cause don’t me wrong I’ve met guys who actually kind of enjoyed the notoriety and got off on having that label. **Bernardo** being one of them, I don’t see that in you, if I saw that in you, I wouldn’t even be back in here talking to you quite frankly; but maybe I’m wrong. Maybe you got me fooled I don’t know. This is over and it can have a bad ending where Jessica’s parents continue to wonder where her daughter’s laying.

**WILLIAMS:** (sighs)

The brilliance of Smyth’s approach should not go unnoticed. He was able to sit across from a man that had raped, assaulted and murdered several women; yet, he was able to empathize and find the good in Williams. He reminded Williams that he was not Bernardo; some investigators might have difficulty making that distinction.

At this point, Williams clearly weighed his options. What is extremely interesting is that in the moments prior to confessing, he asked the Detective to call him Russ, as follows:

D/SGT. SMYTH: I don’t know, I mean obviously there’s a huge search still under way and it will continue until her body’s found that might even happen tonight for all I know. Once that happens then I don’t know what other cards you would have to play? What are we going to do?

(No conversation for 27 seconds)

D/SGT. SMYTH: Russell what are we going to do?

WILLIAMS: Call me Russ please

D/SGT. SMYTH: Okay what are we going to do Russ?
The request made by Williams to be called Russ was extremely indicative of the sense of rapport that had been established between him and Smyth. In Williams’ most vulnerable state, he asked to be called Russ; a name normally reserved for close acquaintances.  

17.14 MIRRORING SILENCE

Throughout the aforementioned exchanges, there were extremely long periods of silence, and this silence is worth mentioning. Some investigators will attempt to fill silence with more questions. This is a common mistake. Silence increases anxiety in the suspect and it makes the suspect want to talk in order to reduce the uncomfortable state of limbo. It is extremely difficult for most people to co-exist in silence; especially in the context of an investigative interview.

Detective Smyth also utilized this silence to further comfort Williams through body language. In studying Detective Smyth, his body language mirrored that of Williams. Polygraph examiners such as Smyth are taught to mirror their subjects when interviewing them. Mirroring is a communication technique that is attributable to the field of Neuro-Linguistic Programming. Its purpose is to improve rapport with another person through physically imitating their non-verbal approach and style. The concept can be illustrated by watching couples in a restaurant. Those that mirror each other’s body language are more likely to be having a pleasant conversation.

132 (Appleby, 2011)
133 (Center)
The Alternative Question

As the silence between them continued, Smyth posed an “alternative type” question as suggested by Reid. He asked Williams a question that further opened the door to a safe confession. He asked:

**D/Sgt. Smyth:** Is Jessica somewhere we can find her easily like is it something where I can make a call and tell somebody to go to a location they’re going to find her, or is this something where we have to go and take a walk?

In essence, if Williams responded either way to the question, then this would be viewed as an admission. Some may question the presumptive nature of this question; however, in this case it was ethical. Smyth had previously provided Williams with ample opportunity to provide his version of the story and Williams had not offered any credible responses. In addition, Smyth asked the question in a non-aggressive manner, albeit confidently. To this question, Williams responded with “it is hard to believe this is happening.” Smyth sensed that Williams was cracking; accordingly, he made himself available for Williams to confide in. The truth had yet to surface; however, this would soon change.

GOT A MAP?

Nearly four and half hours had gone by, and Williams had not confessed. Despite the interview’s length and the web of deceit concocted by Williams, the Detective and the Colonel maintained a collegial relationship throughout. In fact, Smyth called him “bud” immediately before Williams confessed. The final exchange took place with Williams seeking to minimize the impact on his wife, as follows:
D/SGT. SMYTH: Where do we go Russ? Is there anything you want from me? Is there anything you want me to explain? Is there something missing you’re struggling with that I can shed some light on for you?

WILLIAMS: (sighs) Now I’m struggling with how upset my wife is right now.

D/SGT. SMYTH: Russ what are you looking for?

WILLIAMS: I’m concerned that they’re tearing apart my wife’s brand-new house.

D/SGT. SMYTH: So am I, but if nobody tells them what’s there and what’s not they don’t have any choice. Computers have been brought to Microsoft in California... this investigation will end up costing no less than ten million (10,000,000) dollars easy... so what am I doing Russ? I put my best foot forward here for you bud I really have. I don’t know what else to do to make you understand the impact of what’s happening here?

WILLIAMS: I want to um minimize the impact on my wife.

D/SGT. SMYTH: So do I

WILLIAMS: So how do we do that?

D/SGT. SMYTH: Well you start by telling the truth.

(No conversation for 28 seconds)

WILLIAMS: Okay

D/SGT. SMYTH: Alright so where is she?

(No conversation for 22 seconds)

WILLIAMS: Got a map?
And the moment had finally arrived. As any investigator will tell you, it is extremely rewarding when an offender confesses. Investigators are human; accordingly, it is nearly impossible not to sense some sort of emotion – if not gratification at that moment. However, it is critical for the investigator not to succumb to that emotion. Much work still lies ahead.

17.17 FULL DISCLOSURE

Although Williams’ request for a map suggested an admission of guilt, several issues remained. The emotional work was substantially complete and admissions had been made; however, a complete confession was still required. Smyth needed to go through all the details to address the legal requirements pertaining to both the *actus reus* and *mens rea* of the offences. Accordingly, the investigator needs to gather all the painstaking details of the offences. It would be erroneous if the investigator did not ask the necessary questions to prove the offence. It is imperative for these questions to be asked when the suspect is emotional, and in the moment. The IFA is not immune to these sorts of mistakes. In the context of fraud, all the necessary signatures and ancillary details to arrive at the factual truth must be confirmed. Anything less may pose problems for the ultimate prosecution of the offence.

17.18 DETECTIVE SMYTH AND COLONEL WILLIAMS – CONSISTENT RAPPORT

In the hours leading up to midnight on February 7th, 2010, Williams provided Smyth with the heinous details of his offences. Smyth listened to Williams in a non-judgmental manner throughout each painstaking detail. Subsequent to Williams’ admissions, Smyth extended his hand to Williams and the following exchange took place:
D/SGT. SMYTH: Okay Russ, you’re doing the right thing here okay.

WILLIAMS: Well again my interest is to my wife’s life a little easier.

As Smyth extended his hand, Williams reciprocated the gesture. After nearly six hours of discussion, their rapport had continued. Despite the disturbing details of the offences, Smyth continued to address Williams in a respectful manner. This collegial relationship extended beyond that night, as Smyth interviewed Williams several times while he was in prison about evidence that had been found on his computer. Williams continued to cooperate with Smyth even though Smyth was the man that had ultimately brought Williams to his demise. The cooperation established between Smyth and Williams was critical in relieving the judicial system of a costly and lengthy trial that would have further aggravated the grief experienced by the victims.

Prior to Williams receiving his life sentence, Crown Attorney Lee Burgess stated, “David Russell Williams is simply one of the worst offenders in Canadian history.” Upon completion of that statement, the crowd applauded. Throughout the court room, emotions were running rampant. The victims’ families had suffered through days of testimony that were finally over. When Williams received his life sentence, Justice Robert F. Scott stated, “The depths of depravity demonstrated by Russell Williams have no equal.”

The anger that many people feel for Russell Williams is understandable and may linger forever. As Williams exited the court room for the final time, an anonymous observer said, “Go join your friend,

134 (Appleby, 2011)
135 (CBC News)
Paul Bernardo.” That comment is indicative of much public sentiment; many people view Williams and Bernardo as synonymous personalities. However, from the perspective of an investigator, these two individuals are vastly different. Despite the consistencies in the crimes between Bernardo and Williams, they are different personalities. To expert psychologists and psychiatrists, Bernardo is acknowledged to be a psychopath, whereas Williams is not.

Justice Archie Campbell did a review of the Paul Bernardo investigation in 1996. He made the following notation about the investigative interview of Bernardo in his report:

So far as the interview was concerned, it was not expected that Bernardo would confess. Experience with sadistic predators suggested that he would try to “beat the interview”, but if he got talking he might say things that would assist the investigators.137

Justice Campbell’s quote highlighted the difficulty of interviewing the non-emotional offender. To face the Bernardo challenge, the police decided to interview Bernardo with two investigators as opposed to one; the strategy resulted in an investigative disaster. Bernardo seized control of the interview; the atmosphere was described as a circus. Justice Campbell summarized his findings:

About the interview itself [of Bernardo], there is little to be said except that it began badly, degenerated into an argument, continued badly, and ended badly. Nothing of value was ever gained from the interview.138

136 (Global Toronto)
137 (Campbell, 1996)
138 Ibid
It is clear that the investigative interview of Bernardo went badly. Both officers involved acknowledged that they could not get on the same page. One of those officers commented that “it was the worst day of my life.” 139

To address the challenges of the Williams interview, the OPP decided to utilize only one interviewer. Detective Smyth explained that: “the use of two officers is a strategy of a dying breed. It is extremely difficult for two investigators to work in tandem. Also, it is much easier for a suspect to tell a secret to one person, rather than two.” 140 Smyth’s quote accentuates the importance of the investigator maintaining control in an interview.

The control that Smyth demonstrated on that Sunday afternoon in February of 2010 was masterful. Smyth relied on his training and experience in unraveling Williams’ deceit. The evidence was introduced strategically and the questions were posed systematically. The environment was empathetic; the result was convincing.

18 FUTURE DIRECTIONS – IFA INTERVIEWING

As previously noted, the lessons learned from the confession interview of Russell Williams could contribute to the foundation of the suspect interview model required by the IFA profession. The interview demonstrates many of the attributes of the MI, PEACE, and REID models previously

139 Ibid
140 Smyth also told me that the police will use two interviewers if one of the interviewers has previously built a positive rapport with the suspect, but is not a good interviewer. By and large, it is preferable to utilize one interviewer instead of two, according to Smyth.
discussed. It is up to the profession to assess the relative merits and deficiencies of these methods in order to generate its own leading interview model.

The PEACE model of interviewing has many principles that could be utilized by the IFA. The approach, which is similar to the non-accusatory elements of REID, can serve as a starting point. PEACE highlights the contribution of planning, building rapport and listening to a successful investigative interview. In addition, the method illustrates the importance of allowing the suspect the opportunity to provide a complete account of his or her story, which also builds rapport, and treats the suspect fairly.

Although PEACE serves as an effective starting point for the investigator, it does not optimally equip the investigator with the psychological tools that are often required to elicit confessions, which are hallmarks of REID and MI. Under REID, and as demonstrated by Smyth, the investigator is taught specialized tactics such as: the “bait” and “alternative” questioning techniques, which are extremely effective in eliciting confessions. Further, the principles of MI allow the investigator to resolve ambivalence to change by: 1) expressing empathy; 2) developing discrepancy; 3) rolling with resistance, and 4) supporting self-efficacy. These principles were also demonstrated by Smyth in that Williams was not coerced into confessing; instead, he was provided the necessary autonomy to invoke change from within.

141 As previously identified, these approaches are generally effective on emotional offenders as opposed to non-emotional offenders. To approach non-emotional offenders, the investigator should appeal to the suspect’s sense of logic and reasoning.
With respect to the lie-detection methods advocated by REID and the use of the BAI, there is insufficient empirical support to rely on such techniques. Accordingly, the investigator should focus on whether the subject is providing inconsistent explanations and vague responses, as opposed to focusing on lie-detection signals. Although it is true that Williams demonstrated some deceptive signals taught by REID, the methodology is not scientifically consistent. Should IFAs use techniques that are not empirically supported, they could find themselves in the precarious position of attempting to defend unsound techniques under cross-examination. Nevertheless, the IFA profession should continue to monitor scientific studies for potential improvements in this area.

Future DIFA students are invited to build on the research highlighted in this paper and to examine the intricacies associated with both witness and victim interviews. By doing so, the profession will be better equipped to address the legal, ethical and psychological implications associated with all types of investigative interviews. Is that not what education and professional development is all about?
Interviews, such as that of Russell Williams, need to be studied by investigators in the years ahead because they allow the investigator the opportunity to see how theory fits into practice. It can be argued that the evidence against Williams is truly what brought about his demise, rather than Smyth’s interview techniques. However, to advocate such a view is to overlook the most valuable lesson. Over and above evidence and effective questioning, the Williams interview was built on the premise of respectful human exchange. It demonstrates that the investigator who is attuned to the humanity of his or her subject will achieve the greatest success.

The crimes perpetuated by Williams were the most reprehensible in nature, and unforgivable to most. However, for Smyth to be successful, he needed to free himself of those stereotypes and judgments. He needed to view Williams as his equal; at least on that day. To do so, Smyth created an empathetic environment built on trust and rapport. In turn, Williams responded to Smyth’s approach by providing one of the most compelling murder confessions in Canadian history.

Long-time talk show host and philanthropist Oprah Winfrey also emphasized the importance of empathy in dealing with people on her May 25, 2011 show finalé. She stated:

_I've talked to nearly 30,000 people on this show, and all 30,000 had one thing in common: They all wanted validation. If I could reach through this television and sit on your sofa or sit on a stool in your kitchen right now, I would tell you that every single person you will ever meet shares that common desire. They want to know: ‘Do you see me? Do you hear me? Does what I say mean anything to you?’ Understanding that one principle, that everybody wants to be heard, has allowed me to hold the microphone for you all these years with_
the least amount of judgment...Try it with your children, your husband, your wife, your boss, your friends. Validate them. 'I see you. I hear you. And what you say matters to me'.  

Oprah’s comments are thought-provoking and should garner people’s attention; she has over 25 years of experience interviewing people in highly emotional situations and is well respected for her interviewing skills. As she said goodbye, she felt compelled to leave her viewers with her most critical message of utilizing empathy and validation in fostering effective communication. In doing so, she expressed her hope that future generations will benefit from this universally applicable approach. She highlighted the transferrable nature of this time-tested technique: “It has worked for this platform, and I guarantee you it will work for yours.”

In order for the IFA profession to truly reach the top of its platform, it must communicate a new prevailing message for its future professionals: that investigative interview training is critical to the strength of this profession. More specifically, IFAs must be equipped with comprehensive interview training to minimize their reliance on the police. It is the IFA and not the police investigator who has the requisite skills to solve complex financial crimes. Accordingly, it should be the IFA and not the police investigator who drives the investigative interview process. Police teachings have served our profession well; however, we must strive to be even better. To truly become the premiere investigative accounting designation, the IFA profession must deliver the irrefutably supreme interview model. This profession is ready, and the time is now.

142 (The Oprah Winfrey Show Finale)
143 Ibid
An investment in knowledge pays the best interest. ~ Benjamin Franklin
APPENDIX A

OPP Search Warrant-
obtained from Mr. Larry Jones

April 21, 2011

To be read in conjunction with report dated June 20, 2011
Appendix A

“Appendix B” Search Warrant
Detective Constable C. REINKE
Ontario Provincial Police

Items Being Sought

- Cameras
- Camera bags
- Computers / computer system and its peripherals and related devices including the video monitor, any input or output devices, and associated communication equipment, cables and connectors
- Digital Media Storage devices or media capable of storing data
- Devices, media and documents containing computer passwords
- Operating systems and computer programs
- Computer system or software manuals and reference materials
- computer system and its peripherals and related devices including the video monitor, any input or output devices, and associated communication equipment, cables and connectors
- devices or media capable of storing data
- devices, media and documents containing computer passwords
- operating systems and computer programs
- computer system or software manuals and reference materials
- Women’s garments
  o black bra from La Senza – size 32
  o purple bra from La Senza – size 32
  o light purple lacy bra from La Vie En Rose – size 32
  o 2 pairs of Victoria Secret underwear
  o a pair of La Senza thong underwear with poodle dogs
  o two pairs of underwear from Old Navy
- dark beige bed sheets
- two baby blankets – one fuzzy white with a bear, one pink and yellow
- Pornographic photographs / images / videos
- Tie Straps (zip ties)
- White shoes / work boots
- Waffle type shirt with ripped cuff
Appendix A

“Appendix C” Search Warrant
Detective Constable C. REINKE
Ontario Provincial Police

1. George Larry JONES on the 17th day of September 2009 at the Municipality of Tweed, Ontario, did break and enter a certain place to wit a dwelling house situated at 112 Charles Road, Municipality of Tweed, Ontario and did commit therein the indictable offence of sexual assault contrary to section 348(1)(b) of the Criminal Code of Canada.

2. George Larry JONES on the 17th day of September 2009 at the Municipality of Tweed, Ontario, without lawful excuse was in the dwelling house of [redacted], situated at 112 Charles Road, Municipality of Tweed, Ontario with the intent to commit an indictable offence therein contrary to section 349(1) of the Criminal Code of Canada.

3. George Larry JONES on the 17th day of September 2009 at the Municipality of Tweed, Ontario, did commit an assault on [redacted] contrary to section 266 of the Criminal Code of Canada.

4. George Larry JONES on the 17th day of September 2009 at the Municipality of Tweed, Ontario, did commit a sexual assault on [redacted] contrary to section 271 of the Criminal Code of Canada.

5. George Larry JONES on the 17th day of September 2009 at the Municipality of Tweed, Ontario, did without lawful authority confine [redacted] contrary to section 279(2) of the Criminal Code of Canada.

6. George Larry JONES on the 30th day of September 2009 at the Municipality of Tweed, Ontario, did break and enter a certain place to wit a dwelling house situated at 76 Cozy Cove Lane, Municipality of Tweed, Ontario and did commit therein the indictable offence of sexual assault contrary to section 348(1)(b) of the Criminal Code of Canada.

7. George Larry JONES on the 30th day of September 2009 at the Municipality of Tweed, Ontario, without lawful excuse was in the dwelling house of Laurie MASSICOTTE situated at 76 Cozy Cove Lane, Municipality of Tweed, Ontario with the intent to commit an indictable offence therein contrary to section 349(1) of the Criminal Code of Canada.

8. George Larry JONES on the 30th day of September 2009 at the Municipality of Tweed, Ontario, did commit an assault on Laurie MASSICOTTE contrary to section 266 of the Criminal Code of Canada.

9. George Larry JONES on the 30th day of September 2009 at the Municipality of Tweed, Ontario, did commit a sexual assault on Laurie MASSICOTTE contrary to section 271 of the Criminal Code of Canada.

10. George Larry JONES on the 30th day of September 2009 at the Municipality of Tweed, Ontario, did without lawful authority confine Laurie MASSICOTTE contrary to section 279(2) of the Criminal Code of Canada.

To be read in conjunction with report dated June 20, 2011
1) (n.d.). Retrieved from


6) Brown v. Mississippi, 278 (United States Supreme Court 1936).

7) Bruton v. United States, 391 U. S. 123, 140 (United States Supreme Court 1968).


18) *Global Toronto*. (n.d.). Retrieved from


22) Ibrahim v. R, AC 599 (House of Lords 1914).


33) Prosko v. the King, S.C.R. 226 (The Supreme Court of Canada 1922).


36) R. v. Reid, 210 (Newfoundland Supreme Court 2000).

37) R. v. Whittle, 914 (The Supreme Court of Canada 1994).


