

## The Issue of the Reid Technique as Applied to Juvenile Interrogation

In 2000, scrawny, wide-eyed, fourteen-year-old Lorenzo Montoya was convicted of a murder he did not commit. Video footage of his interrogation shows him receding into himself and sobbing as he is threatened and shouted at by his interrogators. As he struggles to answer the questions posed, the interrogators pounce, declaring they already have the evidence they need to convict him—fingerprints, footprints, even “hair prints.” In one moment, one of the interrogators pats his arm and refers to him as “son.” In another, he threatens life imprisonment. Montoya ultimately confessed to the murder, only to be exonerated in 2014 by way of DNA evidence (Prendergast, 2016). The interrogative method at the heart of this false confession? The Reid Technique.

The Reid Technique, originally outlined in the 1962 textbook, *Criminal Interrogation and Confessions* by Fred E. Inbau, John E. Reid, and Joseph P. Buckley, is a widely used and accepted nine-step interrogative process when it comes to adult and juvenile interrogations alike. The first step involves “direct, positive confrontation” in which the interrogator states that they are absolutely certain of the suspect’s guilt (Merryman, 2010, p. 22). The second step is to establish a moral theme for the interrogation, which functions as a “face-saving alternative” or ethically sound excuse for having committed the crime. The interrogator may suggest that anyone in the suspect’s shoes would have done the same thing, the crime at hand. Further steps encourage interrogators to interrupt any of the suspect’s attempts to clear their name with a reference to their guilt, maintain eye contact and close distance in order to keep the suspect emotionally roused, and formulate two-option questions in which if the suspect chooses the more morally righteous answer, they are likely to incriminate themselves (Merryman, 2010, pp. 23-24).

These specific and artfully crafted steps have made the Reid Technique the most popular interrogation training program in the United States (Spierer, 2017, p. 1721). Two-thirds of police departments train some or all officers in the technique, and over 500,000 law enforcement officers have attended a seminar on it since 1974 (Merryman, 2010, p. 21). Because it is so pervasive, the potentially harmful effects the Reid Technique can have when applied to juveniles are overlooked. Police training manuals describing the technique tend to instruct police to interrogate minors using the same practices they would use during the interrogations of adults, holding minors to adult standards (Merryman, 2010, p. 17), and currently, there is no age restriction on who can be interrogated. This means that although juveniles lack the experiential intelligence and critical thinking capabilities adults do, they can face the same consequences an adult might such as an equally grueling interrogative process and therefore, a potentially unfair conviction.

Despite its popularity, the Reid Technique has been increasingly condemned by developmental psychologists and legal scholars for its coercive and psychologically manipulative approach, which has led to an incredibly high rate of false confessions as acknowledged by the United States Supreme Court. According to the 2017 text by Ariel Spierer, *The Right to Remain a Child: The Impermissibility of the Reid Technique in Juvenile Interrogations*, juveniles are two to three times more likely to falsely confess than adults. Of the 125 known false confessions, they account for approximately one-third. One study analyzed 340 exonerations and found that 42% of juveniles had falsely confessed compared to 13% of adults (p. 1731). This data becomes even more dire when coupled with the knowledge that trained police are only marginally more successful than the average person when it comes to identifying a false confession, and virtually no one is capable of determining whether a person is truly guilty during a Reid Technique-guided

interrogation (p. 1726). Still, Reid Technique training programs insist that innocent people do not confess while boasting explicitly that officers who partake in their courses will experience an increased confession rate (Merryman, 2010, pp. 21-24).

The Reid Technique encourages interrogators to extract a confession regardless of the cost and even if it means resorting to deceptive practices, including falsifying evidence that would incriminate the suspect and capitalizing upon the suspect's trust in authority. Juveniles are more vulnerable to these deceptive practices inherent in the technique, however, and are therefore more likely to falsely confess (Spierer, 2017, p. 1721). For example, a juvenile may feel more inclined to confess if promised a short-term reward because their cognitive control systems are not yet finished growing. Their immaturity puts them in danger to the extent that the Supreme Court recognizes that they need more protections than do adults in the context of the law. Because juveniles' brains are underdeveloped and therefore fundamentally different from adults', the Reid Technique is inherently coercive, and there is precedent establishing it as unconstitutional when wielded against juveniles, it should be banned from use during juvenile interrogation.

It is undisputed that juveniles are not finished maturing, with many theories suggesting that they will not complete the course of their development until the age of twenty-five, but the Reid Technique does nothing to accommodate this deficit. Hayley M. D. Cleary, as detailed in the 2017 essay, "Applying the Lessons of Developmental Psychology to the Study of Juvenile Interrogations: New Directions for Research, Policy, and Practice" attributes the high rate of false confessions as a result of the Reid Technique to juveniles' developmental status. The dual systems model of adolescent risk taking posits that during adolescence, one's brain undergoes a dramatic increase in the production of the neurotransmitter, dopamine. At the same time, an

adolescent's cognitive control system, predominantly their prefrontal cortex, has yet to fully mature. Studies on post-mortem brains and MRI scans have confirmed that the prefrontal cortex completes development long after adolescence (LaMontagne, 2013, p. 35). As white matter increases in the brain, the prefrontal cortex grows. This gradual buildup of white matter is referred to as *myelination*, during which insulating material surrounds the part of the neuron that permits the neuron to release signals known as *neurotransmitters*, including dopamine as previously mentioned (LaMontagne, 2013, p. 35). This leads to a heightened sensitivity to short-term reward and thus, heightened impulsivity (Cleary, 2017, p. 20).

Exacerbating this issue is that most juveniles involved in the United States justice system experience psychological disorders or developmental disabilities, which may increase their reliance on emotions during decision making rather than critical thinking (LaMontagne, 2013, p. 36). Adolescents demonstrate deficits in regulating their emotions and making informed decisions when presented with distressing stimuli compared to adults and children alike. During an interrogation, this deficit often manifests as an increased willingness to falsely confess in order to end the interrogation and be given permission to leave. Being allowed to "go home" is among the most popular reasons for juveniles to give a false confession, and the Reid Technique encourages interrogators to "imply leniency as a minimization tactic," making a false confession seem like an effective means of bringing an end to the interrogation (Cleary, 2017, p. 120). Whether or not the juvenile is actually guilty becomes irrelevant as their focus instead turns to escape, and as they lack an understanding of long-term consequences, that escape becomes more important than maintaining their innocence. It requires only a brief lapse in judgment to set oneself up for a wrongful conviction.

It can be argued that juveniles view the world entirely differently from adults, with their youth warping their perception of the seriousness of an interrogation. Philosopher John Locke hypothesized that how we see an object is not necessarily the truth of the object. Michael P. Lynch provided the example of a coin. When asked the shape of an American coin, most would reply that the coin is round. However, upon a second glance, holding the coin directly in front of their face, one might believe that the coin takes on a more elliptical shape. The coin is certainly round, but we may not perceive it as round. In this way, our subjective perception controls our realities (2016, p. 1). Where an adult might see a pressing situation in which they must insist upon their innocence at all costs, a juvenile might see an inconvenience or a punishment. Also, as adolescents' prefrontal cortexes are not fully developed and their perceptions of what is true and untrue are more easily swayed, they may be more likely to confess when presented with falsified evidence of their guilt. They have not developed the insight an adult might have when it comes to identifying when they are being deceived. Lynch notes the practice of “photo-sharing,” taking an older photo but misrepresenting it as having been taken during a recent event (2016, p. 10). An adult may be able to piece together why a photo of apparently incriminating evidence could not have possibly been taken when it was said to, but a juvenile, without the critical thinking skills to challenge it, may perceive it as truth without hesitating.

The Reid Technique asserts that an interrogator can determine whether a suspect is guilty based on their demeanor, but they are seldom educated on social psychology and juvenile behavior. Thus, they do not have a well-rounded understanding of what characterizes a juvenile as guilty and their decision to proceed with an interrogation is based on gut feeling. Dan Ariely introduces the concept of the Simple Model of Rational Crime, or SMORC, in the 2012 publication, *The (Honest) Truth About Dishonesty*: "If we lived in a purely SMORC-based world,

we would run a cost-benefit analysis on all of our decisions and do what seems to be the most rational thing. We wouldn't make decisions based on emotions or trust, so we would most likely lock our wallets in a drawer when we stepped out of our office for a minute" (Ariely, 2012, p. 3). Ariely describes the SMORC as a model of dishonesty in which one weighs positive and negative outcomes to decide whether they should cheat or lie. But as Ariely suggests, we do not live in a world in which people exclusively weigh the costs and benefits before making a decision. Decisions are swayed by emotion, and interrogators have no gauge of the cost of their actions on a case-by-case basis. They might even discover a juvenile they determined was guilty was exonerated years later. Consider the Behavioral Analysis Interview, or the BAI, which is performed to establish that the suspect is guilty before the interrogation can begin. The BAI operates under the assumption that an interrogator can decide whether a suspect is guilty based solely on verbal and nonverbal cues, but according to Spierer, police frequently misattribute common, emotionally induced behavior in juveniles to their guilt. Juveniles are biologically predisposed to be more likely to avoid eye contact, fidget, and slouch, behaviors typically associated with concealing the truth, especially when subjected to high-stress situations such as an interrogation (2017, p. 1727). The Reid Technique permits interrogators to subject juveniles to interrogations based on a "hunch" rather than clear evidence. The emotions and feelings the interrogator associates with verbal and nonverbal cues displayed by the juvenile guide whether they begin an interrogation—an interrogation that is likely to involve lying and manipulation to extract a confession.

The Reid Technique is riddled with coercive practices, so much so that The American Psychiatric Association has recognized these practices breach "certain ethical principles" and has banned psychiatrists from participating in deceptive police interrogations (LaMontagne, 2013, p.

47). Standard Reid Technique manuals encourage interrogators to discover and exploit a suspect's weakness (LaMontagne, 2013, p. 46), often by playing upon a suspect's perceived fear or disengagement. They might yell at, threaten, interrupt, or pretend to befriend the suspect. In the case of juveniles, a common weakness is a trust in authority. Juveniles are significantly more likely than adults to obey authority figures and are more likely to see police officers as friends rather than adversaries in the context of an interrogation (Alberts, 2015, p. 112). Interrogators are made aware of this and resort to coercion in order to capitalize upon this trust. For example, Minnesota juvenile interrogation records demonstrate that 56% of the time, interrogators do not immediately read the suspect's *Miranda* warnings. Rather, they first attempt to establish a relationship with the suspect, predisposing them to waive their rights so the interrogation may proceed (LaMontagne, 2013, p. 42). In addition, it is not unheard of for suspects to be questioned by multiple people at once, resulting in increased anxiety (Cleary, 2017, p. 121). To further heighten their susceptibility to the interrogator's influence, the suspect may have been deprived of rest, food, or water (LaMontagne, 2013, p. 44). Then, isolated in an interrogation room, the suspect has been primed to accept falsified evidence.

In 1994, a seventeen-year-old boy confessed to attempting to murder his parents after the interrogator convinced him his father had awoken from a coma and claimed he was guilty. In actuality, his father had never regained consciousness and died not long after this interrogation commenced (LaMontagne, 2013, p. 47). As demonstrated by his case, Reid Technique-guided interrogators are encouraged to coerce a confession even through means most would find immoral.

Supreme Court decision, *Roper v. Simmons*, cited scientific studies to back the idea that juveniles are developmentally different from adults in three ways: they are less mature and have

a lesser sense of personal responsibility, they are more susceptible to external pressure, and their character is not as well formed (Merryman, 2010, p. 19). Therefore, it will be assumed that they will behave differently than an adult during an interrogation. Should not then this difference be accounted for during juvenile interrogations? There is resounding legal precedent to support the banning of the Reid Technique when applied to juveniles. Firstly, *The Right to Remain a Child: The Impermissibility of the Reid Technique in Juvenile Interrogations* explains that *Haley v. Ohio* (1948) established that juveniles are more susceptible to pressures from police, and that means they demand more protection during interrogation compared to adults. This was supported by the case of *Gallegos v. Colorado* in which due to the defendant's age, he was not considered to be "in full possession of his senses" while being interrogated by the police (Spierer, 2017, p. 1735). The opinion of the court detailed that a fourteen-year-old could not be knowledgeable of the consequences of his actions when it came to an interrogation without the aid of more mature judgment. As he was denied counsel from a lawyer or adult advisor during his five-day detainment, it was determined that the way in which his confession was obtained violated due process (*Gallegos v. Colorado*, 1962). This is a common occurrence when it comes to the Reid Technique and juvenile interrogations, as juvenile suspects do not know the extent of their rights.

Also, the Reid Technique impedes upon the Fifth Amendment protection against self-incrimination, which has been confirmed by the Supreme Court to apply to juveniles. This is due to the inherently coercive process of convincing a juvenile to waive their *Miranda* rights. Laurel LaMontagne's *Children Under Pressure: The Problem of Juvenile False Confessions and Potential Solutions* argues that juveniles are not equipped to waive their *Miranda* rights because they lack understanding of what these rights mean. To thoroughly understand the language of a *Miranda* warning, one must read between a 6<sup>th</sup> and 10<sup>th</sup> grade level or higher. However, records



show that 70% of inmates regardless of age read at or below the 6<sup>th</sup> grade level. In addition, in some jurisdictions, it has been found that 80-90% of juveniles will waive their *Miranda* rights without an attorney present (2013, pp. 40-41). If juveniles cannot be guaranteed a thorough understanding of what their *Miranda* rights entail, they cannot be fairly subjected to an interrogation in which anything they say might incriminate them.

Some might argue that the Reid Technique should not be banned from use during juvenile interrogation because parents are capable of defending their children's rights during the interrogative process. After all, many states establish the right to have a parent present during a juvenile interrogation (Alberts, 2015, p. 114). Jennifer Alberts, however, dismisses this claim, explaining that there is "a negative correlation between delinquency and attachment to one's parents" (2015, p. 114). A juvenile who is not securely attached to a parent might have never been taught to avoid delinquent behaviors such as stealing and destroying personal property. The parent lacks the presence, authority, knowledge, etc. to reprimand the juvenile or redirect them to a professional for help. Also, delinquent juveniles are more likely than their counterparts to lie to their parents, and juveniles who lie most often are six times more likely to commit a crime than juveniles who lie least often. This suggests that parents of juveniles involved in the justice system have a lesser understanding of the child's whereabouts and activities at any given point and cannot be trusted to have a nuanced perspective of their child's behavior. Parents are also more likely to persuade their child to talk than to remain silent, and one study concluded that the majority of parents believe their children "should not withhold information from the police during an interrogation" (Alberts, 2015, p. 115). In addition, as demonstrated by *Gallegos v. Colorado*, juveniles are not always knowledgeable of their rights and may not ask to have a parent present during their interrogation although they are entitled to that if they so desire

(*Gallegos v. Colorado*, 1962). In this case, the officer who obtained the confession testified that he had informed the suspect of his ability to have a parent present, but as the suspect did not ask for this and did not have the opportunity to speak to a lawyer, he was cut off from any friendly or professional aid.

Lorenzo Montoya served thirteen years in an adult prison prior to being exonerated, including four years in solitary confinement. But his unjust torment did not end upon his release. Montoya, then twenty-nine, was forced to adjust to a new world of cell phones and the internet. In one interview, his defense lawyer spoke of his struggle to reintegrate himself with society (Denver7 – The Denver Channel, 2014). His story exemplifies the true, harrowing nature of the Reid Technique. When the Reid Technique is employed and a false confession is extracted, a guilty person roams free while an innocent child suffers. The public loses trust in the justice system, and the interrogator faces lofty consequences, potentially losing their position. There is precedent undermining the Reid Technique's constitutionality already including landmark cases *Haley v. Ohio* and *Gallegos v. Colorado*. The method encourages interrogators to lie to and deceive juvenile suspects though researchers warn of their biological vulnerability to such deception. For the safety of children such as young Lorenzo Montoya and the good of our criminal justice system and the United States as a whole, the Reid Technique must be outlawed.

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