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## ***FUNDAMENTALS OF CRIMINAL INVESTIGATION***

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What is a criminal investigation? In order to effectively conduct or perform criminal investigative functions, one must understand the basic definition of; *investigation* and *investigate*. An investigation is an examination, a study, a survey and a research of facts and/or circumstances, situations, incidents and scenarios, either related or not, for the purpose of rendering a conclusion of proof. When one investigates, he/she makes a systematic inquiry, closely analyzes and inspects while dissecting and scrutinizing information. An investigation, therefore, is based upon a complete and whole evaluation and not conjecture, speculation or supposition.

Is it really that simple and straight forward for the criminal investigator? Is it so clearly defined or so black and white? Law Enforcement, the entity charged with the responsibility to accurately close the gap between fact and fiction, detect and prevent criminal acts; and in doing so are mandated to function within strict administrative and legal parameters. It is true that one must understand the basic definitions, however, the scope of the criminal investigator reaches far beyond that of mere definitions. Crime detection and investigation is both an art and a science; a collaboration of common sense, judgment, intellect, experience and an innate intuitiveness along with a grasp of relative technical knowledge. The criminal investigator must continually apply those skills, acquired through study and experience, to the examination and observation of the criminal and his behavior, as well as his social and physical environment.

When the most basic of Law Enforcement functions: the preservation of life, the protection of property and the maintenance of peace, are not substantially realized, the investigative process must then be undertaken. The aim of this process is two fold; first, the investigator will attempt to identify and safely apprehend the violator and secondly, produce him/her before a proper court of law. Of course there is much going on behind the scenes, so to speak, while attempting to achieve these not so simple objectives; identification, apprehension and prosecution.

Criminal investigations are conducted primarily for the prevention of crimes. When crimes occur, Law Enforcement is responsible to the community it serves and must discharge it's duty by immediately investigating such incidents. Ideally the investigation will cause the violator to appear before a court so as to answer for his/her behavior. Ultimately and probably most important, is that the investigation, detection and apprehension of the criminal, effectually serves to curtail recidivism thereby reducing overall crime.

There are several basic types of investigations that Law Enforcement personnel may undertake in the routine discharge of their duties:

- Investigations of incidents, which are violations of laws and/or ordinances that include; criminal acts (robbery, assaults, larceny, burglary, murder, illegal weapons, etc...) and traffic accident investigations (serious injuries, likely to die, property damage).
- Personnel investigations into the background, character and suitability of persons in an effort to determine their eligibility for positions of public trust.

- Investigations of illegal conditions or circumstances, which if left unchecked would cause an increase in traditional crimes. These conditions may include the following: narcotics sales, illegal weapons trafficking, vice type crimes (prostitution, gambling), street gang activity, organized crime, terrorist front activities, fraud and con games, identity theft and computer crimes. Although many of these conditions would dictate self-initiated investigations based upon intelligence rather than reacting to a citizen crime complaint, there are however, times that investigations will in fact result from such individual crime complaints.

What does the investigator attempt to obtain during his/her investigation? The answer is *information*. What does the investigator hope to develop as a result of obtaining or gathering this information? The answer is *evidence*. All investigations, regardless of purpose, involve the task of gathering and evaluating information. The investigative process should be viewed in terms of gathering information, rather than attempting to obtain evidence. This is not to say that an investigator should overlook obvious items of evidence or items that can potentially become evidentiary in nature. The process should be conducted with the mindset that *from information comes evidence*. It is important to point out that the information that forms the basis for evidence that is ultimately presented during court proceedings represents only a small fraction of the total information gathered during the investigative process. The information gathered is subjected to intense scrutiny before it ever reaches a courtroom via examination, evaluation and screening. This scrutiny takes place at several levels during various stages of review: at the Law Enforcement stage, usually by ascending supervisory ranks within the investigative infrastructure and, depending upon the seriousness or news worthiness of the incident, the administrative echelon; this is in addition to the prosecution stage which includes the initial writing of the complaint, the arraignment process through grand jury proceedings and pre-trial hearings up to and during the actual trial. Much of the evidence gathered by Law Enforcement investigators is not acceptable for presentation in court due to the rules of evidence. This, however, does not preclude these pieces of information from assisting the investigator insofar as guiding him/her toward what *will* be acceptable evidence; *all information* possesses some degree of value.

There are two primary sources of information: *people* and *things*. These are so different that the process of gathering and evaluating each type requires specific knowledge and skills. Basically, the *criminal field investigator* engages the human element: all of the emotional, psychological, environmental, and sociological aspects of human behavior. The *crime scene technician/investigator* or the laboratory based *scientist* deals with inanimate objects that are unable to mislead, lie or fight. The tasks of the criminal field investigator and the technician are closely related and somewhat dependent upon one another insofar as that each participant must have a fundamental appreciation of one another's duties and responsibilities. Although these tasks are *functionally related*, they are in fact different in and of themselves and thereby necessitate the capability of distinct skills, disciplines and techniques. This is not to say that one task is more important or more difficult than the other.

The investigator must be cognizant of the limitations and capabilities of the crime lab and its technicians, as well as accepted protocols, in order to properly process potential evidence. The investigator, while submitting physical things to the crime lab for examination, does not forfeit the responsibility and duty of attaining an expertise in the recognition, collection and preservation of physical evidence. The extent and value of information obtained from physical items examined, greatly depends upon the ability of the investigator at a particular scene to recognize potential evidentiary matter. It should be noted, that when comparing the value of information obtained from physical items versus information derived from people, the courts have historically established that information obtained from physical items usually reflects a higher evidentiary value. The criminal investigator should always remember that physical evidence cannot lie, it is not affected by emotions and it cannot be impeached.

The criminal investigator must continually be aware of the “Theory of Transfer”; when two objects meet, some effect of that meeting can be established and verified at a later time. An awareness and understanding of this theory will help the criminal investigator navigate the sometimes complex investigative process and hopefully curtail and/or prevent the inadvertent destruction or the failure to recognize and preserve evidentiary materials. This contact between objects includes people, things or a combination of such. For instance, consider the following basic examples: as a result of an *automobile collision*; the transfer of paint, broken glass, metallic or plastic particles, or rubber, to another automobile and/or a pedestrian or vehicle passenger; as a result of an *assault*; a weapon that makes physical contact with a person transferring blood, hair, skin or clothing fibers to the weapon and/or the perpetrator, or the shape (impression) of the instrument used as a weapon, left on an object or person struck. The possibilities are potentially endless and can be as simple as merely, unwittingly, walking through a crime scene. When an object or person; an investigator, a victim, a perpetrator or a witness enters a crime scene, something is brought into the scene and something is removed or taken away from the scene.

Since “investigation” is the process by which one seeks and ultimately (hopefully) finds answers to the questions; when, where, who, what, how and why (NEOTWY), and knowing that information is the key that unlocks those answers, it is incumbent upon the criminal investigator to constantly recognize, develop and maintain current productive sources of information. The criminal investigator must know where to locate information that is needed to successfully conduct his/her investigation. One of the most crucial and blatantly obvious sources of vital information is the crime scene. One must understand that not all investigations involve or include an actual crime scene. Although most criminal acts begin and end at some point and some where; a crime scene in the traditional investigative sense, does not exist or is not practical or material to locate, identify, preserve and process in certain criminal circumstances. With that said, let us focus on the traditional tangible crime scene within the context of the most common criminal acts; homicide, robbery, assault, burglary, sexual assault, etc... The crime scene is the central location of a crime and usually the starting point of an investigation. This, however, is not to say that there are not additional or secondary scenes which, dependant upon the type and to what extent a criminal has perpetrated a crime, could be quite varied and numerous, spanning a great distance over a protracted period of time. These scenes contain physical traces of the criminal, the victim(s), weapons, tools, latent prints, DNA, and serological matter, etc... The value of the crime scene as an investigative resource is not permanent and is often environmentally sensitive which can result in rapid deterioration of potential evidence. The most basic and fundamental rule relating to crime scene protocol mandates the protection against contamination and destruction before and during processing. If nothing else, *protect the integrity of the scene*. The information obtained from a crime scene can afford the criminal investigator proper direction during the overall investigative effort.

Often times, in addition to the forensic information derived from the crime scene, *people* are the engine that drives the information machine; especially when there is a considerable lack of tangible evidentiary items available. An investigator is continually tested and evaluated by his ability (or lack thereof) to obtain information from people; perpetrators, victims, witnesses, confidential sources and general acquaintances alike. The importance of this investigative resource should not and cannot be ignored. The investigator must be able to communicate effectively with people from all walks of life regardless of social and/or economic standing. This talent or art takes some practice and is often refined with experience. Law Enforcement personnel in general, will be well served to remember that they should know the people who live, work and frequent their area of assignment and to never compromise themselves (morally or ethically) when attempting to illicit information from criminals and/or other less scrupulous individuals, no matter how well intentioned.

The criminal investigator must remain objective and open to different perspectives when conducting an investigation. He/she should follow the facts wherever the facts may lead them and not attempt to fit certain facts to the exclusion of others into a pre-determined conclusion. One must always look beyond the obvious and seek the truth.