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PRESENT POLICE AND LEGAL METHODS FOR THE DETERMINATION OF THE INNOCENCE OR GUILT OF THE SUSPECT

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When considering the existing scientific attempts being made to determine the innocence or guilt of the suspect, the police and judicial machinery furnish an interesting contrast in many ways. Especially is their procedure worthy of consideration since one daily reads in our largest cities of brutal treatment which the suspect is subjected to in the attempt to elicit a confession. Again one reads of the alleged cases of "jury fixing" and acquittal of suspects because of attempting to purchase freedom.

For many years, and even now in certain localities, the method of the ordeal was supplanted by that of the "third degree" of the police. By this procedure one favorite method of eliciting the truth is for a relay of detectives to quiz the suspect for a period of hours during which he is given no food or allowed to sleep until a confession is extorted. Naturally with the suspect in an extremely fatigued condition and the nature of the confession will vary according to the suggestibility of the subject and the suggestions of the examiner. In one large city one important step in the procedure was to compel the suspect to face a powerful light which was turned directly into his eyes. It is not an unknown procedure for sheriffs to take advantage of the fear of the negro by placing a pistol against the chest and command him to confess. In the Philippines what was termed the "water cure" has been employed. By dint of partial suffocation the desired confession is elicited. It has not been uncommon for detectives to employ brutal beating of the suspect to more refined methods of torture in which the suspect is deprived of his tobacco, especially if he is an intense addict, etc. Again a man may be "planted" in an adjoining cell who may scream and rave all night as though he was going to be punished for the crime the suspect is supposed to have committed. Numberless incidents could be enumerated, but the same objections would apply to all. Aside from humanitarian objections to this procedure, the objection to this injudicious method of examining a suspect is that the suspect may confess to a crime of which he is innocent.

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Munsterberg expresses his opinion on police methods in the following excerpts (from "On the Witness Stand," p. 73 ff.):

"And today the fortresses of Prussia are said to witness torture which would be impossible in non-Slavic lands and, although the forms have changed, can there be any doubt that even in the United States brutality is still a favorite method of undermining the mental resistance of the accused? There are no longer any thumb-screws, but the lower orders of the police have still uncounted means to make the prisoner's life uncomfortable and perhaps intolerable, and to break down his energy. A rat put secretly into a woman's cell may exhaust her nervous system and her inner strength till she is unable to stick to her story. The dazzling light and the cold-water hose and the secret blow seem still to serve, even if nine-tenths of the newspaper stories of the 'third degree' are exaggerated. Worst of all are the brutal shocks given with fiendish cruelty to the terrified imagination of the suspect.

"Decent public opinion stands firmly against such barbarism; and this opposition springs not only from sentimental honor and from esthetic disgust. Stronger, perhaps, than either of these is the instinctive conviction that the method is ineffective in bringing out the real truth. At all times innocent men have been accused by the tortured ones; crimes which were never committed were confessed; infamous lies have been invented to satisfy the demands of the torture. Under pain and fear a man may make an admission which will relieve his suffering, and, still more misleading, his mind may lose the power to discriminate between the illusion and real persuasion.

"The clean conscience of a modern nation rejects every such brutal scheme in the search for truth, and yet it is painfully aware that the accredited means of unveiling the facts are too often insufficient. The more complex the machinery of our social life, the easier it seems to cover the traces of crime and to hide the outrage by lies and deception. . . .

"The vulgar ordeals of the 'third degree' in every form belongs to the Middle Ages, and much of the wrangling of attorneys about technicalities in admitting the 'evidence' appears to not a few somewhat out of date, too; the methods of experimental psychology are working in the spirit of the twentieth century. The 'third degree' may brutalize the mind and force falsified secrets to light. Enlightened juries have begun to understand how the ends of justice are frustrated by such methods. Only recently an American jury, according to the newspapers, acquitted a suspect who, after a previous denial, confessed with full detail to having murdered a girl whose slain body

had been found. The detectives had taken the shabby young man to the undertaking room, led him to the side of the coffin, suddenly whipped back the sheet, exposing the white, bruised face, and abruptly demanded, 'When did you see her?' He sank on his knees and put his hands over his face; but they dragged him up to his feet and ordered him to place his right hand on the forehead of the body. Shuddering, he obeyed, and the next moment again collapsed. The detectives pulled him again to his feet, and fired at him question after question, forcing him to stroke the girl's hair and cheeks; and evidently without control of his mind, he affirmed all that his torturers asked, and in his half-demented condition even added details to his untrue story."

In the San Francisco case of Henry Wilkins marked feeling seemed to be present at the time and one newspaper ran a serial story by Wilkins himself, in which it was alleged that Wilkins was taken from his children at a camp and, without hat or coat, dragged to San Francisco to the St. Francis hotel. Here it was alleged that he was grilled for hours while the investigating attorney and his assistants imbibed whisky. Again, in connection with the same case, according to a story published by a reporter who covered the case (True Confessions, October, 1923), the confession of Arthur Castro was obtained as follows: A man was "planted" by police officials in a cell adjoining that of Castro. This individual spent the night moaning and shrieking to the effect that he was accused of the murder. Finally, it is alleged that Castro, unable to endure the strain, confessed. In spite of this and the fact that he was offered immunity, the testimony of this man was offered in an attempt to implicate Henry Wilkins in the murder of his wife. (The Supreme Court overrules a confession made by an individual under offer of immunity which implicates another.)

It has not been, and is not still uncommon, for police officers to instruct the brawny neophyte as to how to inflict the most physical damage upon a recalcitrant suspect in such a manner that no evidence such as bruises or broken skin is afforded. In this technique the stomach is the favorite site for the administration of the blows.

A very interesting discussion of the third degree occurred at the Seventh Annual Session of the International Association of Chiefs of Police (1910, Proceedings). The following excerpt is taken from Wigmore ("Principles of Judicial Proof," p. 550):

"Major Sylvester of Washington, D. C. (President of the Association): While there was a cessation of visitations of the criminal classes to our shores during the War of the Revolution, yet eighty

years later, in the War of the Rebellion, at a time when our population had grown to tremendous proportions and our commercialism extended from ocean to ocean, the disruption demanded extraordinary military and civil police activity. The marauder, the bank robber, and the highwayman, thieves and criminals of every kind, took advantage of the exciting times to engage in their nefarious undertakings. At the close of the conflict, during the period of reconstruction, soldiers and police were required to meet unusual conditions in the cities. Many of those arrested, criminals and suspects, were subjected to many kinds of inquisition and torture prior to court trials, in order that convicting confessions, implicating themselves or others in the commission of violations, might be had. It was clearly following upon these exciting times that the practical 'sweat box' was described. As pictured, it was a cell adjoining which, in close proximity, was a high iron stove of drum formation. The subject indisposed to give information securely locked within his bosom, would be confined within the cell; a scorching fire would be encouraged in the monster stove adjoining, into which vegetable matter, old bones, pieces of rubber shoes, and kindred trophies would be thrown; all to make a terrible heat, offensive as it was hot, to at last become so torturous and terrible as to cause the sickened and perspiring object of punishment to reveal the innermost secrets he possessed, as the compensation of release from the 'sweat box.' This is the origin of the torrid appellation which has been so much discussed within the past few and preceding years. The existence of any such character of contrivance in these enlightened days would be followed by raid and suppression. On the other hand, the criminal and those who use the criminal vernacular, apply the effervescent term to the office, or room adjacent to a detective headquarters, where consultation may be had or questions asked in secrecy of prisoners under investigation.

"We have heard of the other vulgarity, 'Third Degree.' Some of us have taken the genuine article. In police and criminal procedure and practice the officer of the law administers the 'first degree,' so called, when he makes the arrest. When taken to the place of confinement, there is the 'second degree.' When the prisoner is taken into private quarters and there interrogated as to his goings and comings, or asked to explain what he may be doing with Mr. Brown's broken and dismantled jewelry in his possession, to take off a rubber-heeled shoe he may be wearing in order to compare it with a footprint in the burglarized premises, or even to explain the blood stains on his hands and clothing, that, hypothetically, illustrates what would be called the

'third degree.' The prisoner is cautioned by the reputable officer today that he need not incriminate himself, and in some places the authorities have blank forms in use stipulating that what a prisoner states is of his own volition and without coercion. In the pursuit of their investigations, there is no law to prevent the officers of the law questioning any person who, in their opinion, may be able to give information which may enable them to discover the perpetrator of a crime. It becomes the bounden duty of the police to locate the violator. There is no justification for personal violence, inhuman or unfair conduct, in order to extort their confessions. The officer who understands his position will offer admissions obtained from prisoners in no other manner than that sanctioned by the law. If a confession, preceded by the customary caution, obtained through remorse or a desire to make reparation for a crime, is advanced by a prisoner, it surely should not be regarded as unfair. . . . Volunteer confessions and admissions made after a prisoner has been cautioned that what he states may be used against him, are all there is to the so-called 'third degree.'

"Chief Corriston, of Minneapolis: The 'third degree' as understood by the public is a very different thing from the 'third degree' as known by a police official. . . . This body of men should by every means in its power refute the sensational idea that the public has of the so-called 'third degree.' . . . In making an investigation as to who is responsible for committing an offense, it is often necessary to have several talks with the persons suspected, and their statements as to their whereabouts and conduct at the time in question are important links in unraveling a mystery. These investigations by the police have no doubt cleared the record of many an innocent suspect. The object is to ascertain the truth, not, as the public seem to think, fasten the commission of a crime upon someone—whether innocent or guilty.

"Within the last year or two all have seen an exemplification upon the stage of the 'third degree.' One connected with the police department cannot witness this play without being thoroughly impressed with the thought that the audience only gets a portion of the author's idea—the reputed methods of the police. . . . No true and sincere police officer who has witnessed this play of the 'Third Degree' will disagree with me that it does a gross injustice to that hard-working body of men who preserve the peace and dignity of the various municipalities of this country, and an endeavor should be made to correct the false impressions given the public of police officials and police methods by this play. . . . No police official would take this play seriously, but the public will. . . .

"There may be individual cases where police officials have used improper and unfair methods to obtain results, but the 'third degree' is and always should be a battle of wits, the only object being to get at the truth. There can be no set rules for gaining information from a person suspected, but brute force to accomplish the result should never be resorted to, and any police official should be promptly dismissed who employs harsh measures to obtain statements. The methods of acquiring information depend upon the circumstances of each case and the disposition and mental faculties of the person under suspicion. . . . A crime has been committed. It is reported to the police; facts may come quickly or slowly. On the spur of the moment the head of the detective bureau must evolve a theory; what was the motive for the crime, who may have had an object in committing it? Someone is suspected, brought in and questioned. The one object is to get the truth. A searching examination is made, call it the 'third degree' or whatever you may; a great deal depends upon it. It may send out from police headquarters a suspect with his reputation good before the world, it may be the means of bringing a felon to justice. If the suspect is innocent his story can generally be quickly checked up and proved, and the 'third degree' is then the means of working to advantage for society and the suspect. . . .

"Chief Janssen of Milwaukee: I think that future historians will write of the present age as the time of yellow journalism and the age of yellow statesmanship. This 'third degree' is brought about in this manner: A man is arrested charged with an offense. An investigation is set on foot, and the prisoner is asked certain questions in order to ascertain his defense or any excuse he may have in regard to certain suspicious circumstances that may surround him. When he finds that he cannot get around those circumstances he tells the truth and admits the crime. Why? First, a cowardly conscience; second, that he *wants* to tell somebody about it; and third, that he may escape the maximum penalty prescribed for the offense with which he may be charged. What happens next? He goes to court and waives examination, and is bound over for trial, and he is sent to jail to wait for that trial. Now the shyster lawyer comes around, one who hangs around the courthouse, or has been sent by a friend or an accomplice of the man who is under arrest, and the first thing he asks is, 'What have you done?' And the answer is, 'I have talked with the Chief of Police. . . .'" His reply is, 'Why, you fool, what did you do that for; I can't do anything for you unless you make some excuse for that statement; what did they say to you?' and the prisoner answers

that they said this and that; and the lawyer asks, 'What did they do?' and he tells something, and with this the prisoner goes on, the lawyer always suggesting, and finally the prisoner gets the idea that he has made a mistake in making a statement to the police officer. The case of this man goes to trial, and the lawyer begins to tell before the jury of the violence that had beep practiced upon the prisoner, about the terrible strain he was placed under by the police to get this confession, and the poor creature who stands before the bar for trial is the victim of police persecution. The press is represented, and in a sensational manner starts to villify the police. . . . This is why you hear so much about the 'third degree,' caused by the vile, unrestrained, unwarranted attacks published in the daily press, brought about by the action of these shyster lawyers and the prisoners themselves in misrepresenting what really did happen when they were questioned by the police."

In his work ("Sidelights of Criminal Matters," p. 205, George H. Doran, New York), John C. Goodwin writes:

". . . This is a form of the notorious third degree, a police subterfuge of German origin, but now also practiced extensively in America. The third degree is *not,* as is erroneously implied by some writers of detective fiction in this country, the relentless and persistent cross-examination, bullying, and browbeating of a suspect in the hope that he will ultimately confess for the sheer sake of peace at any price. Rather is it the very practical application of the fundamental principles of psychology; it is a mental process, refined cruelty, the constant insistence on the unexpected, the creation around the suspect of an atmosphere of nervous tension and nerve-racking uncertainty. Defined in popular language the third degree might be described as the art of getting on someone else's nerves. The whole essence of the process is not what is said to the man under suspecion but what is deliberately not said, but subtley implied.

"When a crime has been committed and there is insufficient evidence to inculpate the suspected person, the net is at once drawn around him and he knows no peace until either he or someone else confesses.

"The writer has frequently questioned American detectives and others concerning the third degree, and their replies have invariably agreed, in substance, namely, that necessity knows no law, that the end justifies the means, that proof of the pudding is in the eating, and that it is 'Hobson's choice.'

"A practical illustration of the working of this extraordinary machine will serve the double purpose of demonstrating its principle

and of indicating the almost despotic sway of the American police over the American public.

"A certain citizen in an eastern town was suspected of a crime the solution of which was baffling the most nimble-witted of American detectives and was drawing upon them the thinly-veiled ridicule of the neighborhood. They accordingly resolved to try the effect of a few weeks of third degree.

"Though not a word was actually said to the suspect, a man holding an important appointment in the town, he was from that moment never allowed to forget that he was under suspicion. First of all, his servants gave notice to leave, furnishing, however, no reasons. Then he was made constantly aware that he was being shadowed. On leaving his house, his club, or his office, he was confronted by shapes that glided away into the shadows on his approach. Then as he was sitting in tramway cars people opposite to him would whisper together, glancing meaningly across at him the while. Anonymous letters arrived. His friends began to look askance at him, and the climax was reached when, on the occasion of his taking his wife to the local theater, the orchestra, at that moment in the middle of an overture, stopped dead at his entry. This was the last straw, and the same evening he telephoned for the police, who were by now expecting such a call at any moment, and confessed all.

"This is a true story and will serve to show how much can be implied without a single word being said. The various mishaps that befell the subject of this narrative were, of course, stage-managed by the astute detectives in charge of the case. Had he been innocent, time would, of course, have been in his favor, and the case would ultimately have been dropped, though, on the other hand, cases are on record in which quite innocent suspects, whose nerves have been overwrought by the application of the third degree, have been stampeded into confessing to crimes of which they were absolutely innocent.

"An even more dramatic instance than that quoted above of the lengths to which the refined cruelty of the third degree will go is that in which an American citizen of great wealth was invited to the house of a friend and there at a private cinema show was shown the reconstruction of a crime of which he was suspected. In this case the film was taken on the actual scene of the crime—a private yacht lying off Rhode Island—the chief characters, including, of course, himself, being made up to resemble the originals down to the smallest details. He confessed precisely four and a quarter minutes after the film had started."

Deputy Chief Stark in a strong article on "Police Methods and Their Critics," in the August, 1911, number of the *International Police Service Magazine,* assails the popular ideas on 'third degree' and those lawyers whose main ability consists in deriding witnesses, distorting evidence and even insulting their opponents with impunity. He claims that popular knowledge of the 'sweat-box' is such that few could define the difference between it and a 'soap-box,' although they would gladly join in condemning it. Newspapers are often too willing to dilate upon the supposed horrors of this system of obtaining evidence. I have seen the actual operation of a 'third-degree' case which obtained a complete confession of two criminals engaged in a variation of the 'green goods' game within eight hours after the case was reported. The police worked upon the basis of two words carelessly dropped by the first two men arrested in regard to the third, who was the leader of the plot. Only once during the whole examination was a voice raised above a conversational tone, and then to forbid the prisoners talking in a foreign tongue. In another case the confession of a stubborn juvenile was obtained only by strapping him in a surgeon's operating chair and ordering another officer to turn on the current slowly at first. The result was the breaking up of a dangerous gang of burglars and transom workers. I think that anybody objecting to such methods is either criminal himself or quite too soft-hearted for a police critic. (This case is indeed unfortunate if the writer wanted to show that the police procedure is what it should be, for, although the author is not a criminal so far as he knows, yet, in his experience, the method used far surpasses in refined cruelty any case that he has heard of and is even on a level with the ancient methods of torture. Especially is this so because of the fear entertained by nearly everyone of anything relevant to a shock. This method is certainly no less brutal than that of the method employed by a sheriff (personally communicated) in which he would place a pistol against the chest of the suspect and, cocking it, tell him to 'come through.')

"The sarcastic and glib lawyers surely ought to be squashed at every opportunity, for not only do they add to the growing contempt of courts, but decrease the willingness, small at any time, of private citizens to testify in court and to make still more disagreeable the task of enforcing the law which every police officer finds is approved loudly in general and as loudly scoffed at in particular." (From a review by George H. McCaffey, JOURNAL OF THE AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 3, p. 129.)

(The following description is of interest, although the suggested prophylaxis in which all confessions to the police should be inadmissible in evidence may seem fallacious to some. The writer is probably only familiar with alleged accounts of the abuse by the police or he gives too credulous an ear to the statements of the prisoner who, advised by some shyster attorney, concocts a story of a confession extorted by threats and under duress. Anyone who has been present directly that suspect is apprehended is familiar with the fact as to the ease and often extreme eagerness with which the suspect blurts out the real truth of the crime. It is here that, perhaps confused because of the obvious discrepancies in his story, as the suddenness of his arrest had left no time for the construction of alibis, etc., that he confesses and then later after seeing what little evidence was against him and at the prompting of the parasitic type of lawyer whose ideal and aim consists in securing a fee that he changes his story. It is the police who are in the best position to secure the real statement of the case before the distortion which so often attends the court attempt to elicit the truth and real facts has occurred. When the suspect is first apprehended violence is never necessary for the eliciting of the confession, for any competent officer who knows his work can by proper questioning bring out the truth as well as any jurist or jury and often much better.)

E. Keedy, in "The Third Degree and Trial by Newspaper," writes as follows:

"In theory, torture as a method of investigation has no place in our administration of criminal law. The principal reasons are: first, because the idea is repellant to our feelings of humanity and fair play; second, because the presumption of innocence until guilt is proven is a fundamental principle of our law, whereas the practice of torture is based on the presumption of guilt; and, third, because it has long been recognized that admissions or confessions secured under the pressure of torture are unreliable.

"At times the charge has been made that police inflict physical or mental torture in so-called 'third degree' examinations; but since the examinations of prisoners by the police are generally conducted in private, it is difficult to secure proof of improper practices. It is, therefore, of particular interest to note a case in which the police administered the 'third degree' before an audience of newspaper reporters, and even permitted these to join the examination. On the morning of Thursday, October 31, Charles N. Conway and his wife were arrested in Lima, Ohio, charged with the murder of ———— of Chicago on

October 28; at 2 a. m. of the following day they were taken by Chicago detectives on board a train bound for Chicago; upon their arrival in Chicago at 7:30 a. m. they were taken to a police station; and at noon the woman confessed to detectives that the murder was committed by her husband. The experiences of the couple during the period of their arrest to the woman's confession are described in the following clippings from various editions of six Chicago papers." (Edwin R. Keedy, JOURNAL OF THE AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 3, p. 502.)

In none of the descriptions furnished by Keedy does there seem to be any evidence of any "pernicious" feature of the 'third degree.' As far as the police are concerned all that Keedy seems to present is that a confession was obtained as the effect of continuous cross-examination. No force or violence is referred to and the only evidence of the 'tortured woman' mentioned in one description is that of screaming, nearly fainting and other indications of a collapse. Is it to be expected that a suspect, if guilty, would enjoy with equanimity a persistent cross-examination without any defense reactions, especially in the case of first offenders and women? Is a woman, especially if of a nervous disposition, ordinarily going to confess unemotionally when questioned or entrapped by her own discrepant statements? In some cases much of the alleged 'torture' in cross-examination of a suspect by the police is due to the defense reaction of a guilty conscience. It is a well known fact that fainting may be employed by a weakling or a woman as a way out of a difficult situation and by no means is fainting to be taken necessarily as the criterion of brutal or inquisitorial methods.

To quote again from Keedy's article (page 503): "The prisoners were, of course, admonished during the course of the examination to tell nothing but the truth, and warned that anything they might say would be used against them. The inquisitors of the Spanish Inquisition used the same formula. In a book on the Inquisition, published in 1734 ("History of the Inquisition," by J. Baker), the author says: 'The criminals are with great care and diligence to be admonished by their inquisitors, and especially when they are under torture, that they shall not by any means bear false witness against themselves, or others, through fear of punishments or torments, but speak the truth only.'"

What would the situation have been if the endurance of Mrs. Conway had proved superior to the grilling of the detectives, and she had not confessed? The newspapers throughout the day had published statements of the detectives, indicating their belief in the guilt

of the accused. Large headlines announced incriminating circumstances—in short, the newspapers proclaimed abroad the guilt of the accused. Opinions prejudicial to the accused are thus created in the minds of the readers, who thereby are unfitted for jury service, or if not are provided with an excuse for escaping such service.

The Conway case presents in open and striking manner two pernicious features of our administration—the third degree and trial by newspapers. In fairness to the police their point of view should be considered. In so far as this can be determined, it is that, since there are so many loopholes for escape in the trial of accused persons, the only practical and safe method of securing conviction is by extracting confessions. Though we are convinced that convictions at such cost are not desirable, yet the premise of the police deserves consideration. It is submitted that two of the greatest defects in the administration of the criminal law are the weak position of the trial judge and the frequency of reversals of convictions due to immaterial errors.

To prevent the 'third degree' and trial by newspapers and to remedy two striking defects in our criminal procedure it is suggested that a statute or statutes be enacted providing for the following:

1. That it shall be a misdemeanor, punishable by imprisonment, for any police officer to exert any force, mental or physical, against an accused for the purpose of extorting any admission or confession.

2. That any admission or confession made by an accused person in response to interrogatories of the police shall be inadmissible in evidence.

3. That it shall be a misdemeanor, punishable by fine and imprisonment, for the editor of any newspaper to publish regarding an accused person statements or comments which create a belief in the guilt of the accused before his trial, thereby prejudicing him at his trial and interfering with the proper administration of justice. This is an offense at common law (*Rex.* v. *Fisher,* 2 Camp. 563, and *Rex.* v. *Tibbitts,* 1902, I. K. B. 77), but the courts in this country have hesitated to apply it.

4. That the trial judge be given power to declare the law (he has this power in most states) and to comment on the evidence.

5. That no judgment of conviction shall be reversed unless the trial court committed substantial error prejudicial to the defendant, thereby causing a miscarriage of justice.

Somewhat similar to those who would abrogate the cross-examination or the admission of evidence obtained by the police officer is the following statement from Bentham (Vol. 7, p. 451—quoted by Walter

T. Dinmore in "Inference from Claim of Privilege by the Accused," JOURNAL OF AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, Vol. III, p. 771):

"4. Confounding Interrogation with Torture. If the accused were compelled to testify, the method of extorting confessions to which recourse is so frequently had by police officers would be unnecessary to a very large extent. Far less physical torture would result from the examination in open court than now results from the continued efforts to extract a statement before trial.

"5. Reference to Unpopular Institution. Because confessions were extorted under the Inquisition in the court of the star chamber, therefore, one should never be compelled to incriminate himself. This association has doubtless been of prize importance in giving the privilege the dignity of constitutional protection, but nevertheless it is difficult to find therein any real argument for the privilege. It must be kept in mind that this privilege was at a time when accused was not permitted to testify in his own behalf and that conditions are not at all similar at the present time."

The following review (Robert H. Gault, American Institute of Criminal Law and Criminology, Vol. 2, p. 605) is of interest: "Henry C. Spurr, in a recent article in Case and Comment, discusses the legal aspect of the confessions made to police officers. Among other things he says:

"The Hon. Orlando Hobbs, of Long Island, came forth at the present session of the New York Senate with a bill designed to shield persons under arrest from the terrors of the modern inquisition, as some of the observers are pleased to call the police practice of questioning prisoners. The bill makes an admission by the defendant while under arrest inadmissible as evidence unless corroborated by a disinterested person and the defendant has been advised that his admissions may be used against him. It would seem as if the time had come to say something on the other side of the question on behalf of a sane administration of the criminal laws for the protection of life and property, especially in view of the fact that we in America have already been at such pains to safeguard every interest of the accused that it sometimes takes as long as three months to get a jury in a criminal case, and when, by reason of delays and technicalities and new trials, the course of justice is so imperiled and the punishment of crime made so uncertain that our administration of criminal law has caused us to become a laughing stock in other countries. Before

making this new crossing suggested by Senator Hobbs, is it not our duty to stop, look, and listen?"

An examination of the cases will show that the courts have been influenced by two theories as to the propriety of the use of confessions. The first of these may be called the humanitarian theory. It is responsible for all the courtesies that have been extended to persons accused of crime, for the delays and technicalities which have made the administration of the criminal laws of the present day so slow, so uncertain and, in many respects, so unsatisfactory. As applied to the exclusion of confessions it has been called by Jeremy Bentham, in his "Rationale of Judicial Evidence" (7 Bentham's works, Bowing's edition, p. 454), "the fox hunter's reason."

The other theory is that confessions are to be excluded only when there is reason to believe that they may not be true. If they appear to be reliable, the fact that the accused may have been taken off his guard is no objection to them, since the punishment of crime is not a sport or a game, but a serious business, made necessary for the welfare of society and the protection of life and property. "The reason for the exclusion of confessions," says the court in *People* v. *Wentz,* 37 N. Y. 304, "is not because any right or privilege of the person has been violated, but because it is deemed unsafe to rely upon it as evidence of guilt."

There is, of course, some real danger that confession may not be true. It would hardly seem as if an innocent man would admit the commission of a serious crime; but experience has amply shown that they may so do. It has been said that the "human mind," under the pressure of calamity, is easily seduced, and is liable, in the alarm of danger, to acknowledge indiscriminately a falsehood or a truth as different agitations may prevail. (2 Hawk, P. C., 6th ed., p. 604.) Let this be conceded. Then if the reliability theory as to the admission of confessions is sound, the problem of dealing with the third degree is not whether the personal comfort of the accused is likely to be disturbed, but whether admissions secured in this way can be depended upon. Are innocent men being browbeaten into confession of crime by means of the "third degree"?

It is unquestionably true that many criminals have confessed their guilt or have made their admissions which have led to their conviction, under the "grilling" of the police, which they would not have done if they had had time for deliberation, or had they had an opportunity to consult counsel. Many have been convicted when they would have gone free had they kept still, but this is far from being against the

peace and welfare of society. It is rather for its benefit. As before stated, it is the serious business of the state to discover and punish the guilty, and, if the police are assisted in their part of this duty by the employment of the third degree, honest men need not be conscience stricken because the process is not entirely fair, in the sense that the word is used by the sportsman, to the criminal.

But, conceding the purpose of the police to be honest, are unreliable confessions produced by means of the third degree? Confessions extracted by means of physical torture are worthless. Are statements drawn out by this so-called mental inquisition also not to be relied on? When it is remembered that nothing which can operate on the hopes or the fears of the accused is permitted, nothing that can be construed either as an inducement or a threat is allowed, it would seem as if little room were left to lead an innocent man to say he is guilty. An examination of all the reported cases on the subject will show, in fact, that there is little chance of this. And if this is so, the proposed New York law would not be a benefit, but a menace to the state.

If Senator Hobb's bill should become a law, it would practically shut out all confessions, for, in cases in which they might be useful, how are they to be corroborated by a disinterested person? Who is this disinterested person to be? It would mean that conviction must be secured without confessions.

If there is to be any restriction in the use of confessions, it would seem as if it ought to be aimed at verbal admissions. These are often extremely unreliable, because the words of the accused may have been misunderstood and misinterpreted, and because he may be misrepresented, owing to the infirmities of the memory of the witnesses and, also, to concede a point, by the desire of an overzealous public officer to convict one whom he believes guilty of a crime. But if the confession is signed by the accused, or taken down accurately when it is made, and there is every reason to believe that it is true, it would seem as if it ought not to be rejected simply because it was obtained by means of the "third degree."

On every side the cry is raised that we are altogether too lax in the enforcement of our laws. It would seem as if no necessity had yet been shown for the erection of a new barrier to the punishment of crime by the abolition of the third degree.

Moved by stories and reports concerning alleged maltreatments by the police in some of our large cities of prisoners charged with crime, the Senate of the United States has authorized the appointment of a

select committee to "inquire into and report the facts as to the alleged practices of administering what is known as the 'third degree' ordeal by officers or employees of the United States for the purpose of extorting from those charged with crimes statements and confessions, and also to any other practices tending to prevent or impair the fair and impartial administration of the criminal law." Most public officials deny that such practices exist, but as there is a widespread popular belief to the contrary, no harm and possibly some good may be derived from the investigation, if nothing more than the removal of the popular suspicion. (Review by J. W. G., JOURNAL OF THE AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 1, p. 109, II 109.)

The following report (No. 128) was submitted by the Select Committee to Investigate the Administration of the Criminal Law by Federal Officials on the Administration of Criminal Law by Federal Officials:

"The undersigned, being the select committee of the Senate, duly appointed under the authority of a resolution of the Senate adopted April 30, 1910, known as Senate resolution 186, and instructed by said resolution—

'to inquire into and report to the Senate the facts as to the alleged practice of administering what is known as the "third-degree" ordeal by officers or employees of the United States for the purpose of extorting from those charged with crime statements and confessions, and also as to any other practices tending to prevent or impair the fair and impartial administration of the criminal law'—

which committee was continued after the 4th of March, 1911, and during this session of Congress, by a Senate resolution adopted February 21, 1911, beg leave to report as follows:

"We have caused it to be generally published in the press that we were ready to hear any complaints falling within the scope of our powers, and have had such as have been received investigated. Several of these complaints were against the metropolitan police of the District of Columbia. Most of these complaints were more in the nature of brutality by policemen than in the nature of 'third-degree' ordeal. In one instance a policeman of the metropolitan police was proved to have been guilty of gross brutality inflicted upon an innocent citizen in an attempt to arrest another citizen. This officer was afterwards convicted in the criminal court of the District and discharged from the force. Maj. Sylvester, the superintendent of the metropolitan police, who has been for ten years the President of the

International Police Chiefs' Association, numbering several hundred members in this country and Canada, testified that while there were instances of brutality by police officers from time to time in various parts of the country that they were sporadic and were not the regular practice. At the annual meeting of the International Police Chiefs' Association, held at Birmingham, Ala., in June, 1910, the employment of the so-called third-degree ordeal for the purpose of extorting confessions and brutality in the treatment of prisoners was strongly condemned by resolutions adopted by the association.

"In the case of the alleged administration of the 'third-degree' methods to the Seyler brothers in Atlantic City, which, as reported in the press, was possibly the moving cause for the creation of this committee, we, through our agent employed to make the preliminary investigation in such cases, obtained the affidavits of the Seyler brothers as to the alleged brutalities practiced upon them by the police of that city. As this was not a case involving officers or employees of the United States, the committee was without authority to investigate it. While the agent of the committee was making a preliminary examination of the facts of this case one of the Seyler brothers was arrested with stolen goods in his possession and was subsequently convicted and sentenced for theft. No well-defined case of the practice of the 'third-degree' method by the metropolitan police of the District of Columbia has been presented to the committee. While we are not prepared to say that cases do not occasionally arise, we have not discovered any, although diligent search has been made.

"Mr. John E. Wilkie, Chief of the Secret Service Division of the Treasury Department, testified that he knew of no practice by federal officials, either in his own or other departments or bureaus of the government, which tended to prevent the fair and impartial administration of the criminal law. He knew of no instance of cruelty or brutality in the attempt to extort confessions from those charged with crime. He stated that he had himself subjected suspects to lengthy examinations, and instanced one case where he had talked with the prisoner for four consecutive hours and the person had at the end of that time made a confession to him. There seems to be no clear definition of what constitutes the so-called 'third-degree' ordeal. In a general way any examination of a prisoner by officers of the law is called by the prisoner and by the press the administration of the 'third degree' or the 'sweating process.' These examinations and investigations are carried on by all departments of the government, by detective agencies, and by the police forces in the different states and

municipalities. From the nature of the case, there is no witness to it except the police officer conducting the examination and the prisoner himself, and from the nature of the case, convincing evidence of brutality would be difficult to obtain. Whatever may be the facts as to the alleged administration of the so-called 'third degree' by the police of the states and cities, in the opinion of the committee the Congress of the United States is lacking authority to legislate concerning the alleged practice, except where it is practiced by officers or employees of the United States. The Hon. George W. Wickersham, Attorney-General of the United States, testified before the committee that he had never heard of the use of the so-called 'third degree' by any federal official and that the knowledge which he had obtained since his appointment led him to believe that no such practice exists among federal officials."

The above investigation is, of course, valueless as far as the alleged employment of brutal methods by the city police are concerned. (This material was secured through the courtesy of Dr. L. J. O'Rourke, Director of the Civil Service Research Bureau.)

Sir Edward E. Cox, in "Police and Crime in India," discusses alleged cases of torture by the police about which much has been written, but official investigations in the leading cases revealed the innocence of the officials concerned. As Cox states: "It seems to me natural enough from a psychological point of view that a robber or murderer should, upon the discovery of his crime, be overwhelmed by the knowledge that his sin had come to light, feel aghast at what he had done, and find himself compelled in his excited frame of mind to relieve his soul by confession. It seems also natural to me that in the course of weeks, while he is awaiting trial, he should cool down, and consider that he is doing himself no good by his confession. Old jail-birds get at him, and under their persuasion he tells the familiar tale that he is quite innocent, and that he only confessed because the police beat him.

"If for one hundred years no police officers, even in the mildest way, even by persuasian, induced an accused person to confess, the mere fact that confessions volunteered and subsequently retracted from part of the record, would leave the case against the police as strong as it is now. It is of the most supreme importance to get rid of the taint once for all.

"There is only one way to do this—to make it illegal for anyone, police or magistrate, to record the confessions of any accused person before his is actually put upon trial. If when he is being tried he

chooses to plead guilty and confesses to what he has done, let him do so. It will not occur often. If the police cannot obtain sufficient evidence against an accused person to send him up for trial apart from a confession he ought not to be sent up for trial at all—some few cases would end in acquittal which now, with a confession, end in conviction. I fully admit this. But it would not much matter. Our law as it now stands is so much designed for the protection of the innocent than for bringing home their guilt to the guilty, and so many undoubted criminals are daily acquitted that to add a few to the number of improper acquittals would be of no great consequence."

Such a procedure as advocated by Cox is obviously unsound scientifically. It would be much better to rely upon properly trained and trusted officials to secure the exact facts in the case as they actually are. If the energy of those who advocate legislation restricting the activities of the police, already impeded by the faulty co-operation so often present between them and the district attorney's office as well as the court, would be diverted to securing the properly trained police and judicial officials, much more would be accomplished in the impartial administration of justice and the maximum protection of society.

In speaking of the "Control of Crime in India" (AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 4, p. 381) Henderson writes: *"Eliciting Testimony by Torture or Threats*—The 'third degree' is said to be familiar in India. 'Wherever I went in India I heard the same complaint of the unscrupulousness and corruption of the police.' (Nevinson, p. 120, 'The New Spirit in India,' 1905.) The wages of the native policemen are very low, only eight to ten shillings a month, and the temptation to extortion and bribery is very great.

Arthur Train in his "Courts, Criminals and the Camorra" (Chas. Scribners & Sons, New York) writes (p. 21): "The ordinary petty criminal is arrested without a warrant, often illegally, hustled to the nearest police court, put through a species of examination composed largely of invective and assertion on the part of the officer, found guilty, and 'sent away' to the Island, without lawyer, adjournment, or notice to his family. The 'cop' tells him 'to shut his mouth or he will knock his block off.'

"When it comes to the more important cases the accused is usually put through some sort of an inquisitorial process by the captain at the station house. If he is not very successful at getting anything out of the prisoner the latter is turned over to the sergeant and a couple of

officers who can use methods of a more urgent character. If the prisoner is arrested by headquarters detectives, various efficient devices to compel him to 'give up what he knows' may be used—such as depriving him of food and sleep, placing him in a cell with a 'stool-pigeon' who will try to worm a confession out of him, and the usual moral suasion of a heart-to-heart (?) talk in the back room with the inspector."

Again (page 31): "In every great criminal case there are always four different and frequently antagonistic elements engaged in the work of detection and prosecution—first, the police; second, the district attorney; third, the press; and lastly, the personal friends and family of the deceased or injured party. Each for its own ends, be it professional pride, personal glorification, hard cash, or revenge, is equally anxious to find the evidence and establish a case. Of course, the police are the first ones notified of the commission of a crime, but as it is now almost universally their duty to inform at once the coroner and also the district attorney thereof, a tripartite race for glory frequently results which adds nothing to the dignity of the administration of justice.

"The coroner is at best no more than an appendix to the legal anatomy, and frequently he is a disease. The spectacle of a medical man of small learning and less English trying to preside over a court of first instance is enough to make the accused himself . . ."

Also of interesting reference are:

1. "'Third Degree' and Illegal Procedure" (*Central Law Journal,* July 15, 1910, Hacheimer, L.).

2. "Torture in American Prisons" (*Law Times,* July 2, 1910).

Many devices and subterfuges have been related whereby the sheriffs have secured confessions from negroes by working upon their superstitions. Thus it has been related that in a certain locality in the South there was a certain swamp to which the suspect was sent and from which he never returned if guilty.

Another favorite *modus operandi* utilized by some police investigators in the attempt to elicit a confession is to get the prisoner in a proper condition of hunger and then letting him order an elaborate meal and placing the food before him. As long as he would not confess he could not eat. On one occasion mentioned to the writer the program was varied by knocking the man onto the floor in an attempt to beat the truth out of him since the starving process was inadequate. At another time the suspect was deprived of food and compelled to climb the high steps of a high tower in his stocking feet and finally

after his feet were bleeding he confessed, but as he explained, so that he might eat.

Baker, in writing on the "Third Degree," asserts the following:

"A police officer, conducting an examination of an accused person, if he has any information in his possession which makes him feel morally sure or have grave suspicions that the person before him has committed a crime, must contrive to place the information before the prisoner, that, if guilty, it will overwhelm him with the idea that more is know than has actually been told to him, thereby in many cases obtaining a confession. Much information is obtained from an accused person by the cleverness with which a police officer can ask questions; also in many instances where fear means nothing a police officer makes good guesses. But this is absolutely no torture nor punishment, physically or mentally, and nothing except clever arguments and the presentation of facts or correct impressions, thereby convincing an accused person that it is useless for him to withhold any knowledge which he may possess of the crime of which he is accused."

Considerable publicity was given the methods alleged to have been employed in Chicago. The following excerpt is from an editorial in the *Chicago Tribune,* February 29, 1924 (used through their courtesy):

"Detective Sergeants Haas, Pengin, and Bratgel, of the Central Detail, caught the youth and took him to the *Herald and Examiner* office. He was there examined. At detective headquarters there is a room known as the 'goldfish room.' There is another in the *Herald and Examiner* office, where the 'goldfish' work on persons the police bring in.

"Last year a man arrested by the police and taken to the *Herald and Examiner* office was examined to make him confess that he was a moron and had attempted rape. He did not confess because he was innocent, but he heard the 'goldfish' and subsequently tried to collect damages for his injuries.

"Perfect ladies who have killed the other woman's husband or the other husband's wife have been taken to the *Herald and Examiner* office by the police. Each is found on being examined to have brought with her a diary in which several months of emotional preparation for the killing is found. These diaries reveal a strange similarity of culture, correct breeding and sometimes penmanship. Each concludes—in case the victim were a man—with 'My God, Diary, you know I loved him and didn't mean to kill him.' The ladies all write alike.

"Engelke, examined by the goldfish, confessed that he was in the

flat when Duffy quarreled with the Exley girl and shot her. The *Herald and Examiner* explained that the examination in its goldfish room merely broke a little police red tape and that it was natural procedure considering what the *Herald and Examiner* did for the police—in co-operation with them.

"The *Herald and Examiner* also says that after the prisoner had been examined he was tired and said he was ready to see the official goldfish at the detective headquarters, 'Only I wish I could get a few hours' sleep.'

"Actuated by humane motives, the *Herald and Examiner* suggested that the detectives take their man to the Bismarck Hotel. They did, still keeping him hidden and out of police headquarters. This was Tuesday night.

"He was still getting a little sleep in the custody of the *Herald and Examiner* at 2 o'clock Wednesday afternoon. . . .

"The chief called one of the editors of the *Herald and Examiner* and demanded that the prisoner be given over to the police. The editor said that he had paid $1,000 for the story and he intended to hold the man. . . .

"The three detectives were stripped of their stars and suspended, charged with what the *Herald and Examiner* calls a technicality. . . .

"We frequently read that the *Herald and Examiner* reports 'arrested a man.' Detectives take these persons to the *Herald and Examiner* goldfish room. A new function of government seems to have appeared, a new journalistic responsibility and duty towards the community and to the city administration—We'll equip a goldfish room with some hose lengths and blackjacks. There will be a cashier's cage outside of it with a night man on duty, and adequate funds. Possibly in giving $100 a month to the policeman honest in the performance of his duty we've been playing a piker's game in the wrong market. Possibly the way to collect news is to have a grand to slip into the palms of a detective or two detectives who bring their prisoners to our 'goldfish' for what in medieval days used to be called the 'question.'"

The following represents the *Herald and Examiner* version of their 'goldfish' methods as appearing in the issues of February 27, 1924, and February 28, 1924:

". . . Engelke unburdened himself of his tale in the office of the newspaper as a man casting a heavy load from his shoulders.

"Laboring under intense excitement all through the story, when the final yarn was spun he was in a near collapse from excess of smoking. . . .

"This newspaper's notable contribution to the cause of justice in getting into police hands a criminal about to fly from the city was accomplished with police at all times in touch with the situation. From the moment he stepped out of the Goldberg apartment until he landed in Central Station Engelke was in police custody every second. But because of the slight infraction of police department red tape involved in the rush to capture the criminal, who was about to take a train out of town (as evidenced by the fact that his baggage already had been sent to the Union Station), the three detective sergeants who made the arrest were yesterday suspended by Chief of Police Collins—because they had failed to communicate their action step by step to their superior officer.

"Captain Kelliher, of the Central Station, commanding officer of the three, was informed of the arrests early in the morning and he co-operated in the matter of taking full advantage of the information obtained by this newspaper. Under his orders a detective was dispatched to relieve the one who had been on guard during the night in the Goldberg home.

"This relief man was sent at 8 a. m. yesterday.

"After he had told his story, Engelke turned to the three detectives and said, 'Well, I'm ready now to see the "goldfish" (thief parlance for the detective bureau); only I wish I could get a couple of hours' sleep first.' . . .

"Actuated by humane motives, the *Herald and Examiner* suggested that the detectives take their man to the Bismarck Hotel. They put him to bed there and set guard over him from 6 a. m. till shortly after noon when he was turned over to Captain Kelliher."

A few weeks later the *Tribune* reporters secured another witness in the case and the following description (as well as a picture showing the girl seated near a bowl of goldfish) was given with references to the method employed by the other paper. The following excerpt is a partial description (used by courtesy of the *Chicago Tribune*), dated March 6, 1924:

"In recognition of a new, if dubious, tendency in modern journalism, the *Tribune* today, with the discovery and presentation of Miss Jeanne Maison, gives out some modest facts concerning the establishment of a goldfish room. . . .

"The term 'goldfish' was coined by some of the roguish, good-natured boys over at the detective bureau. When a prisoner was brought in he might stubbornly refuse to answer questions. All other methods failing, the lieutenant in charge would call out merrily, 'Boys,

show him the goldfish.' The prisoner would be taken to an upper room. There the detectives would lay on right merrilly with a section of hose until the prisoner changed his mind or faded away.

"Some days ago there was discovered the double murder of John Duffy and Maybelle Exley. Reporters from all newspapers, as is the usual procedure, bent their efforts toward solving the mystery. Sometimes a reporter is almost as intelligent as a policeman. But the policeman has the reporter at a disadvantage because he can arrest people and address them in cold, meaningful phrases.

"The *Tribune,* with this disadvantage, has modestly endeavored to record the news, supposing the police department officially devoted to the task of making arrests, to the regretful duty of goldfishing a stubborn witness, and to the stern necessity of imposing imprisonment.

"But times have changed. The police department is slow. One journalistic contemporary made 'a notable contribution to the cause of justice' by detaining William Engelke, a witness in the Duffy-Exley case, for nearly twenty-four hours. Whereat the *Tribune* suggested a new code number, C. O. D. 1,000, and tentatively determined to attempt also some notable contribution.

"The goldfish department therefore is dedicated by Miss Jeanne Maison—who at first was mentioned as Miss Jane Mason—for whom the police and some of our contemporaries have been searching this whole livelong week or more. . . .

"This newspaper's notable contribution to the cause of justice in giving into the police hands a lady who had flown from the city was accomplished with the police at no time in touch with the situation. Customarily, in the conduct of goldfish departments, several hundreds of dollars are distributed among the police. But whether through inefficiency in methods or stupidity in execution it is here confessed that an important detail was neglected; no bribes were paid. This shall be corrected in future goldfishing expeditions in the event it is deemed adaptable to and required by this new phase of journalism.

"Actuated by humane motives, the *Tribune* goldfish department suggested that Miss Maison have an ice cream sundæ. Instead she ate a good dinner. At least the expense account of the reporter shows a dinner. He is a good reporter, so we won't make a point of it.

"At this juncture, Miss Maison, having dined contentedly, might be urged to speak a word in dedication of the goldfish department, or rather annex.

" 'It is delightful,' said Miss Maison. 'I can't say too much in expressing my felicitations. The lawn hose isn't the best substitute for silk lisle, and now I am ready to see the goldfish.'

"Appropriate to the need for efficiency, a bowl of goldfish was set before Miss Maison. 'Oh, the cunning little things,' said Miss Maison, tossing a winning smile upon the Simon Legree in charge of the barbarities; 'is that what makes the prisoners confess down in that other newspaper office?'"

Following the confessions of two boys alleged to have murdered Robert Frank, there was considerable publicity concerning alleged third-degree methods employed during the treatment of two suspects, afterwards shown to be innocent, by the police. According to the statements in the papers the attorneys of these suspects were going to sue the police, as the police were alleged to have used rubber hose and blows with the fist during a cross-examination in one of the precinct stations. Of course the chief of detectives denied that any such methods had been used. Simultaneously interviews were published in the papers in which leading club women expressed their sentiments against such third-degree methods and intimated that action should be taken to stop such practice. Finally an inquiry was instituted and a test case was brought before the committee in which a meat market and grocery proprietor accused Lieutenant ———— of leading his squad into his place of business and threatening to arrest everyone in sight. The victim complained to the patrolman on the beat and was arrested and locked up for forty-eight hours without booking. According to the newspaper accounts this victim was intimidated into "laying off," not only by those whom he accused but also by members of their cohort of gunmen, beer-runners, etc.

When considering the existence of brutal methods of the police in connection with forced confessions, the following observation is of interest. Upon comparing the methods of two of the largest cities in the United States, the police in one carry their baton concealed under their coat, while in the other the club is carried openly and often in the hand and is twenty-four inches in length at least, and this club is several inches longer than that employed by the police of one city. Whether the larger club gives the men a sense of greater security or what not, the fact remains that the police of the eastern city use their clubs very freely upon young boys. It is not uncommon when examining boys under eighteen who have been arrested by the police to find that the officers (members of the flying squad, valiant motorcycle officers, or detective sergeants) secure confessions by the use of the club or hose. In one typical case examined two officers sat on each side of the suspect (fifteen years) and the cross-examination was commenced. The procedure was as follows: Question 1—"Did you

burglarize the house upon ———— Street?" Answer—"No." Officer upon the right hand thereupon promptly hit the suspect with his billy on the back of the neck. The question was then repeated, whereupon the answer was in the affirmative. Question 2—"Did you burglarize a house on ——— Avenue?" Following the answer of the boy in the negative, who was crying, the officer (motorcycle) on the left hit the boy over the stomach with a piece of hose, whereupon the answer was again affirmative.

"This procedure was continued until the boy had confessed to a series of fifty burglaries. The officers, much elated, then went to notify the various owners of the homes that had been burglarized of their "cleaning up the case." Much to their surprise and chagrin they found that some of the houses mentioned had never been burglarized, for the suspect, thinking to terminate the inquisition (as he afterwards told us), confessed to crimes and pointed out houses which had never been entered. The most enterprising officer of the two thought to solve the problem by saying the boy was feeble-minded, and he was sent to the detention home for corroborative evidence (intelligence testing). Here it was found that the boy had burglarized some five or six houses, but said that he had confessed to the others because of beatings he had received. While telling us of these beatings he began to cry and was much terrified and afraid we would tell the officers.

The following statement is fairly representative of the *modus* operandi which seems to be employed when the officer picks up a suspect (in this case a juvenile) and the suspect denies the accusation or admits to one crime and denies others:

"It was May 13 when I stole a bicycle and was riding down ———— Avenue, near ————, when two officers in a flivver squad stopped me and asked me whose bicycle it was. I told them I stole it and one of them hit me with his fist. A man passing said to them: 'Here, don't hit the kid or I'll report you.' The officers replied: 'Go ahead or we'll take you and lock you up also.' Then they drove to the station, leaving the man there. When they got me to the station they tried to make me say that I stole some more bicycles, but I said I didn't, which was true. Then, seeing they would not let up hitting me, I lied and said I stole four others, which was not true. They hit me with a rubber hose before I said that I took the bicycles. The men who used the hose on me were in uniform and were from the ———— Station, No. ——. It was May 13 they hit me with their fists, about 10 o'clock, and with the hose about 4:30. Signed ————."

Of course, by such methods the officials are able to report a tre-

mendous increase in the percentage of cases cleaned up and this percentage will increase or decrease depending upon the type of recruits who join the force. It is interesting to note that in this same city one or two officials of rather high rank (politically appointed) publicly stated their views as to the best methods for handling the juvenile offenders who are caged like animals in a new jail detention home. In brief the method advocated was that of whipping posts or some method whereby the bad boys could be severely whipped and thereby disciplined. The complaint was that these terrible boys had been breaking all the windows in the jail and that things had come to such a pass that the county had decided not to furnish any more windows. Children still suffering from the effects of encephalitis were disciplined according to the best ideas of the attendants (cuffing side of head, etc.) and the chief honor allocated to these youthful delinquents seemed to consist in shining the shoes of the middle-aged, very corpulent, ignorant, and politically appointed supervisors of the floor (similar to practice used by guards in many penitentiaries). Needless to say, such conditions can and will in time be dispensed with by the selection of properly trained attendants, of police officials who are not selected because of their political achievements, with a resultant increase of reasoning power. Of course such improvements will only result through the education of the public itself. Because of their ignorance present conditions exist, and it is only by a realization of the true conditions, which can only be achieved by education and not fanatic propaganda, that proper institutions and officials will be selected.

The following excerpts are interesting instances of police methods as gathered by the Prison Reform League and cited in its publication, "Crime and Criminals" (published 1910):

Page 153: "In Los Angeles, where these lines are written, as recently as July, 1909, complaints that defenseless prisoners in the city jail were 'manhandled' and otherwise ill-treated drew from the chief of police an assurance that such methods and the administration of the 'third degree' would not be permitted; but the persecution to which Mrs. Laura Sim, wrongfully suspected of having tried to murder Mrs. Staehle, claims to have been subjected discounts considerably the worth of the assurance. According to her statement, published October 22, 1909, she was arrested Tuesday afternoon, searched, her watch and all her belongings taken from her, thrown into a dark cell and left there until the following afternoon, when she was taken again to the detectives' office. Her account continues: 'They said, "Well, if this woman dies you can just feel the noose around your neck. In

any case we've got you and we're going to send you up for this." No matter how many times they asked me to repeat my story I did not change. They said the prints on the window were the same as mine. I reached out my hands and said: "Here, take as many imprints as you like. These hands are clean of crime." They called up someone on the 'phone, and then said that my imprints had been found to be exactly the same as those on the window. When they saw that I did not falter they accused me of caring for Mr. Staehle. They were absolutely devoted to each other and it did my heart good to see it. They accused me of intimacy with Mr. Staehle. I said, "No. I am a lady and until you can prove me other than one you will please treat me as such." Thursday afternoon they took all kinds of imprints of my hand with ink, with powder and with a black powder. They accused me over and over of stabbing my friend. They again accused me of intimacy with Mr. Staehle. . . . When they found they could not shake my story they released me. It was about 5 o'clock Thursday evening. They said: "We have conducted this case as carefully and as delicately as we could. We do not want you to be put to any unnecessary notoriety. There is a crowd of newspaper men outside. Walk between us and duck your head, so that they cannot get your picture."

"For a full and earnest discussion of the entire question, however, one cannot go to a better place than St. Louis, Mo. There the efforts of the police to obtain from a stenographer information as to the whereabouts of her employer, who had absconded, aroused a storm of protests. The *St. Louis Post-Dispatch,* the *Republic,* the *Mirror,* former Governor Johnson and others expressed themselves with great vigor, and, as Mr. Johnson has been for some fifty years one of the most noted criminal lawyers in the West, we quote him at some length, his review of the situation being at once forcible and exhaustive. He says:

" 'It is not going beyond the domain of exact truth to assert that no ordinary citizen without position, political influence, or wealth is safe from an infringement of his rights if he unfortunately falls under the suspicion of the police. In such a case he is lucky if he escapes alone with a deprivation of his liberty, and is not subjected to humiliation, degradation, insult, and assault. The principal individual rights guaranteed by the Constitution and the laws, both state and national, are not possessed by the mass of the people of our city, and the deprivation is through an usurped authority of the police department, without right or reason.' And he adds:

"'One day's visit to the courts will overwhelmingly prove the charges made above. A morning paper says: "More than half a hundred men who sweltered in the cells of station houses during Sunday, one of the most humid days of the summer, were adjudged innocent of wrongdoing when haled into police court Monday." Again: "There were 102 cases on the Clark Avenue Police Court docket Monday. Of this number only sixteen convictions were recorded." And this for one day, and about one hundred falsely arrested credited to the police department. An examination of the testimony in these cases will show that there was not a particle of testimony to warrant these arrests. It will show the most tyrannical abuse of power in the officers making the arrests, and a heartless disregard of the plainest dictates of humanity in unnecessarily shutting them up like negroes in the hold of a slave ship with the thermometer at 90. Frequently, in what is called the "round-up" of certain localities, a swarm of detectives go forth and indiscriminately arrest persons and are at a loss to know what charge to put against them; it usually ends with the entry, "held for the chief," or "idling."'

"Passing to a consideration of the 'third degree,' the former governor of Missouri expresses himself in the following forceful language: 'Note some of their official methods: They arrest citizens upon bare suspicion, and on the flimsiest hearsay evidence or at the dictum of their chief. The law-prescribing warrant, in certain cases, is entirely ignored. They invade the sanctity of the home and drag the innocent, males and females, at unseasonable hours of the night to the prison. But the principal outrages perpetrated by them occur after arrests and commitment to the cells of the hold-over. The occupant of the hold-over is a person against whom no formal charge is made.

"'The arrested party is suspected of complicity in a crime or thought to have knowledge of others implicated therein, is frequently brought forth and in the presence of members of the force is put on the rack of a series of the most ingenious questions; in fact, a searching cross-examination. When one official becomes wearied another takes it up, in the effort to entrap the victim into inculputory statements. They are bent on obtaining a confession from him. He may be innocent; they consider him guilty. The more the accused insists on his innocence the more fiercely insistent his examiners become. He is bullied, brow-beaten, insulted, called foul names, and if especially obdurate and irritating to his tormentors he is cuffed and beaten. In administering the last indignity in various cities, the favorite weapon is a hard piece of rubber hose. It bruises and leaves no tell-tale

lacerated flesh. This ordeal for the accused, in the vulgar language of the force, is called "sweating."'

"The *St. Louis Mirror* (William Marion Reedy, editor), a weekly of established reputation in the literary world, summed up the whole case in an article so trenchant that we reproduce it, in part, as follows:

"'The issue is not local. The police of every big city torture prisoners to extort information from them to be used against themselves or others. The police say they do these things only to the professional criminal. The answer is not good. The police have no right to abuse a man or woman who is a criminal. Even the criminal has rights. He cannot be deprived of life, liberty or property, except by due process of law. He cannot be compelled to testify against himself. In England, when a policeman arrests a man, he warns the prisoner that anything he may say will be used against him. This is supposed to be a freer country than England, yet as soon as a man is arrested here he is subjected to an inquisition under threats and often to the accompaniment of kicks and cuffs. The police have no authority to question under torture or otherwise. The only authority to question rests in the court in which the prisoner is tried. The police proceed upon a theory the exact opposite of that of the law. They believe every man guilty until he is proven innocent. They punish him without trial. They act as judge, jury, and executioner, and they are the more ruthless the more helpless the person falling into their hands. Police methods make criminals worse than they would naturally be. We read of city roughs who "hate the law," and we think it just natural cussedness. We are wrong. Those men do not hate the law. They hate the police who abuse and maltreat them every time they are arrested. They are clubbed and drubbed on the street and in the calaboose. Their arms are twisted until they "talk," or they are denied food and drink.'

"The storm in St. Louis came almost simultaneously with the frank avowal that torture has been applied to a Chinaman in New York in an effort to wring from him the confession that he had murdered Miss Sigel. It was proved eventually that he was not the man the police had supposed him to be, and that he had not been near the scene of the murder. The course pursued by the police gave rise to international comment, and we quote from the *London Spectator,* a weekly of the very highest character. After remarking that the 'third degree' is nothing more or less than the revival of the rack and the thumb-screw in judicial investigations, the writer continues: 'Enough has been seen of the "third degree" to make it probable that every

respectable American will wish to have it abolished on the ground that it conflicts with common sense as much as with humanity. Torture never did, and never can, prove anything. History has shown that the tenacity, even the callousness, of victims in resisting torture equaled the ingenuity and persistence of the tormentors. Resistance proves as little as surrender. Religious devotees, the professors of singing and heroic faith, should have a dignified history of torture to themselves, for their resolution is a thing apart. If there is a source of endurance more splendid than religious faith it is surely the unwillingness of a man to betray his friends. . . . We venture to hope that the latest experience of the "third degree" in New York, which seems considerably to outrun the vices of "reconstructing the crime" in France, and which, after all, is only the newest kind of way of doing the oldest kind of wrong, will cause everyone to see that it is removed a great many more than three degrees from usefulness and decency.'

"We think it safe to say that the passage represents the sentiments of most members of the Anglo-Saxon race, and that such a general sentiment represents a force which a nation with honorable ambitions cannot afford to ignore. At this moment much effort is evidently being expended in the attempt to show that the 'third degree' is by no means as bad as it has been painted, and we have before us, under date of September 5, 1909, a syndicate letter reproduced in the great Sunday dailies in which it is shown that, originating with Thomas Byrnes, police inspector of New York, in the Hanier murder case, it has been successful in producing important confessions and bringing to the electric chair those who otherwise would have escaped justice. Against which we set the following sentence from Justice Gaynor: 'Crime and vices are evils to the community; but it behooves a free people never to forget that they have more to fear from the growth of the one vice of arbitrary power in government than from all other vices and crime combined. It debases everybody and brings in its train all of the vices.' If historic proof of this vital truth is needed, let the reader study Lecky's 'History of European Morals'—an admittedly standard work. And none who has given thought to the matter will deny that the distinction between a free government and a despotism is precisely this, that under the former each man is a law unto himself until he invades the rights of others, and that under the latter the property, the liberty and even the life of the individual may be taken at the caprice of authority.

"That the publicity given to this matter recently will result in its being brought to the immediate attention of the legal fraternity would

seem to be assured by the appearance of an article in the October, 1909, issue of *Bench and Bar,* from which we quote freely. After stating that Professor Wigmore cites instances of torture in Scotland as late as 1890, and declaring that on the continent the practice continued until a much more recent period, while some use was made of torture in this country during early colonial days, the article continues:

" 'The "third degree"—a term adopted from Free Masonry—shows a savage survival. There is little difference between it and the methods employed in the dim past. For example, in a Texas case, in 1906, the defendant's confession of the charge of burglary was obtained after a rope had been placed around his neck and drawn up sufficiently to choke him. This confession was admitted in evidence on the trial, but the Texas Court of Criminal Appeals reversed the conviction, saying: "The cruelty manifested on the part of the officers toward defendant has not been surpassed since the days of the Spanish Inquisition. Any officer engaged in, or permitting, such barbarity, should be impeached."

" 'In Mississippi, not long ago, a conviction was reversed because what was referred to as a "sweat-box" confession had been admitted in evidence. The "sweat-box," it was made to appear, was a compartment about five or six feet by eight, entirely dark, and all cracks were "carefully blanketed" to shut out light and air. The prisoner was allowed no communication with the outside world, and from time to time the officer who had put him in this dungeon interrogated the prisoner about the crime with which he was charged, although holding out no inducements and making no threats of the kind which commonly vitiate confessions.

" 'Commenting on this practice, the court said: "Such proceedings as this record discloses cannot be too strongly denounced. They violate every principle of law, reason, humanity, and personal right. They restore the barbarity of ancient and medieval methods. They obstruct, instead of advance, the proper ascertainment of truth."

" 'In a Louisiana case, however, the court rejected statements made by prisoners charged with burglary, who had been heavily handcuffed, kept in separate cells and repeatedly interrogated and plied by their keepers with numerous questions, separate and apart from each other, with direct reference to the charges preferred against them, coupled with the injunction that it were better for them that they should tell the truth. One of the defendants had been taken also to the scene of the supposed burglary.

" 'As in earlier times physical torture, so in later days the "third

degree" has been resorted to on occasions as a mere matter of convenience—to save the trouble of hunting up evidence elsewhere. Thus, in an article on the "Judicial Use of Torture," Professor Lowell says: "Sir James Stephen tells us that during the preparation of the Indian code of criminal procedure in 1872 some discussion took place about the reasons which occasionally led native police officers to torture prisoners, when an experienced civil officer observed: 'There is a great deal of laziness in it. It is far pleasanter to sit comfortably in the shade rubbing red pepper into a poor devil's eyes than to go about in the sun hunting up evidence.' "

" 'Professor Lowell, after advocating so radical a departure from criminal procedure as to require the accused to testify on the trial, goes on to say that any preliminary examination of the accused, however conducted, offers, in the nature of things, a great temptation to oppressive and cruel treatment, and to prosecution on insufficient grounds, while it tends to lessen the incentive to an independent and laborious search for evidence, and hence to a thorough investigation of the fact.'

"Meanwhile an encouraging note of protest comes from the South, the Georgia Court of Appeals, in the case of *Holmes* v. *State,* having upheld recently the right of a man to defend himself from illegal arrest, even at the cost of taking life. The defendant in that case was a negro, and used his gun after the officer had shot at him. The *Central Law Journal* remarks: 'The sacredness of one's person from illegal arrest, or his habitation from unlawful intrusion, is often disregarded these latter days, especially in our large cities, where it frequently occurs that men are placed under arrest without warrant and for offenses not committed in the presence of the officer.'

"Perhaps it may be pertinent to notice here the fact that Inspector Byrnes, who is credited with the invention of the 'third degree,' accumulated a fortune from his office, though his expenditures were on a princely scale, and to contrast this with Mr. McAdoo's statement relative to the London policeman's recognized honesty. In this connection he remarks: 'It may be of interest to note that a chief inspector who died while I was in London, after serving on the police force for nearly forty years, and who had a remarkably brilliant career as policeman and detective, left an estate of less than four thousand dollars. . . .' "

As long as ignorant officials are employed by the police or in the district attorney's office there will be cases in which a false confession has been obtained by brutal methods. There have been many attempts

at investigating such conditions, but the difficulties are such that the results are always negative. Although a physician in charge of prisoners once told the writer that he had even seen fractured skulls which were the results of attempts to secure a confession by police detectives, it is difficult or impossible to secure sufficient evidence to warrant a conviction. Some interesting results are being obtained with a deception test. One of the routine questions is, "Did the police or any officials ever beat you when attempting to secure a confession?" Another is, "Did the police or any official ever deprive you of sleep or food for hours while attempting to secure a confession?" Many recidivists, having truthfully confessed to a crime, later regret this or are instructed by their "mouthpiece" and alleged that their confession was extorted by police torture.

In such individuals there would be disturbances in the graphic record, but in individuals who had been beaten by the police at some time or other the record concerning these questions would be clear, although the individual lied during the same test about other facts concerning crimes and this was later proven.

Brutalities used to extort a confession by police and other officials today will be avoided by the employment of the right type of official, but this will take time. Obviously, if a satisfactory scientific method can be found which will secure an accuracy of even fifty per cent, such a method would be gradually adopted.

In spite of the fact that the public is aware of the existence of brutal methods employed in criminal investigation, in some of our large cities especially such a condition is ignored and openly tolerated. With the improper type of administrative heads and officials it is difficult to prove the existence of the methods of beating prisoners. Even if a case is proven, the investigation is white-washed by the discharging of the actual officers caught on the grounds that they exceeded their authority instead of conducting the case in the routine manner.

However, this problem belongs to this transitory stage in which so often crooked politics and graft control criminal procedure, but with the education of the mass to the necessity of the right type of official, scientific or at least fair methods will be employed by securing the proper type of official.

Sporadic attempts to eliminate brutal methods of investigation to elicit a confession by police or district attorney officials are doomed to failure. Assuming a conviction or sufficient evidence be obtained to prove a few isolated cases in a large department the morale remains unaltered. The guilty men are possibly suspended or discharged and after a few days further incidents may occur.

One prophylactic method, of course, consists in the securing of properly trained officials who are capable of a little self-control and possess the requisite intelligence. No man who cannot control his temper should be tolerated as a public official. That such requirements are not Utopian and are practically effective have been proven. As a classical instance of this the Berkeley Police Department should be cited. In the four years in which the writer was connected with the department he did not see or hear of a single instance in which brutal methods were used by the local department. That such methods are more commendable in clearing up a case is obvious and many offenders have told the writer that they confessed and they were willing to co-operate in the solution of the case because of the square way in which they had been treated. Doubtless there are many other departments which could show the same results. Of course, to secure the proper type of official the public must be educated to the necessity of dispensing with the club-swinging, tobacco-chewing, loud-mouthed, bullying type of subjective police officer. Also the members of the district attorney's office should be properly selected and trained so that brutal methods of investigation will not be tolerated.

A proper, practical method for determining the innocence or guilt of the suspect, if secured and adopted, would, of course, in time supplant all other and less effective methods. And at this stage of investigation, although but little is really known covering the deception syndrome or the accurate interpretation of physical, graphic records of emotional disturbances, remarkable results have been obtained by contemporary workers in this field.

In fact, where used successfully by officials on the Coast in several counties, the results have been unanimous in the agreement as to the practical utility of a deception technique. In many of these cases the examiners were not "clinical psychologists" but practical police officials or students. Confirmatory evidence has been secured by several investigators using the same type of technique in police and court investigation, as well as in the penitentiary and examination of juvenile offenders. Of this the activities of Keeler and Sloan, working with cases for the Los Angeles department and adjoining counties. are notable; Waterbury, Greening, and Wilson, who have handled cases for Alameda and adjoining counties; the writer, who has obtained positive results working under Chief Vollmer in California; and Dr. Adler of the Institute for Juvenile Research, Illinois.

The following excerpts from letters are of interest because they represent observations founded upon tests conducted on all types of

cases in which the examiners were usually required to make the interpretations before a check was possible in many cases:

"April 11, 1924: Answering your inquiry regarding the Lie Detector for use in this Bureau, will state that I have been using this instrument for the last two months. I have found, through close study of this instrument and comparison of the records and charts of persons questioned, that this instrument is almost infallible in its detection of whether or not a person is guilty of a crime and could conceal same from the record as marked out by this chart.

"For instance, I will cite two cases which stand out particularly. One of the boys, Tom Bailey, arrested for the killing our Officer Bond in connection with the robbery of the Merchants National Bank at Seventh and Hoover.

"Tom Bailey was picked up merely as a pickup in that neighborhood. To look at this boy and talk with him, to take his unsophisticated manner and mode of speech, living and general appearance, one would presume that here was a green country boy not used to the city, unused to any violent crime or exertion of any kind, in fact, almost the last person in the world whom we picked, even as an associate of criminals.

"When the Lie Detector was placed upon this young man the mental reaction was so great that although he was unable to be identified by any of the people at the bank, although we had two suspects in at the time and he was brought before them and no identification could be obtained by any of these people, we, the officers working on the case, were convinced that this man had some guilty knowledge in some manner on either this or some other crime. For this reason, I held this man in jail for a period of ten days. We questioned him daily. He maintained a stolid demeanor, was never excited and would be the last person, from his mannerisms and outward appearance of ever having known anything of this crime. Still, the reaction, as put forth on the chart, convinced me, or rather, strengthened my belief that there must be something wrong with him.

"After a period of ten days and after we were looking for the fourth man in this robbery, he was identified by one of the other bandits as being the Tom Bailey whom we were looking for, and later on made a full and complete confession. This was all due and brought about by the use of the Lie Detector, as several of the men working on this case were absolutely convinced of his innocence, and willing to release this young man.

"In another instance, we made an arrest of one William Anderson for the holdup of the Pacific Southwest Trust and Savings Bank

located on West Adams Street. He had specifically denied all knowledge of this crime. He was blase, indifferent, and to all outward appearances, perfectly calm, cool and self-contained.

"The Lie Detector did not under the first interrogation show any particular stress or inward emotion. After we had the facts and the Lie Detector was again placed upon him, while the man still remained calm to all outward appearances, the inward reaction was so great as to cause all doubt to be removed. These records I have preserved and count upon them as being a very wonderful demonstration of this machine.

"I have used it upon numerous cases since this time and have, in all instances, found the reaction as recorded by this machine, to be infallible, particularly in the demonstration of this machine wherein the officers were laboring in the dark and fishing for information on a crime wherein they had suspects.

"I could cite you numerous cases where this machine has been put on a number of men to determine which one was guilty of a crime in factories and stores and so far we have not had a single failure. I do endorse this machine, not that it can detect a lie, but that it will show inward emotions to such an extent that officers working on a case having true facts of the crime can easily determine the guilty person from the innocent one."—George K. Home, Chief of Detectives, Los Angeles, California.

"Reference to your recent inquiry concerning my opinion of the Lie Detector, you are advised that since the Police Chief's Convention in San Francisco in 1922, when I became interested in the machine, I have used it personally and have definite knowledge of its use in a large number of cases and I consider it a valuable aid in the detection of perpetrators of crime and in the removal of the stigma of accusation from the innocent.

"I do not believe it practicable nor the function of the instrument to furnish evidence for the courts and I think it a mistake to attempt to introduce its records into the courts. It cannot prove guilt or innocence. Its function, from the police standpoint, is to aid detectives in determining whether or not they are working the right 'leads,' and in clearing innocent suspects. Its psychologcial effect often causes persons guilty of crime to confess, but these confessions carry none of the stigma nor unreliability of the 'third degree' because there has been no coercion, no intimidation and no physical discomfort, the confession being brought about simply through the belief of the guilty person that his lie will be detected.

"I heartily endorse the use of the machine for the above pur-

poses."—Warren E. Pugh, Chief of Police, Department of Police, City of Duluth, Minnesota.

"We have cleared up many cases that seemed almost hopeless by the use of your Lie Detector and take this opportunity . . ."—Alex Trotter and George D. Burbank, Inspectors of Police of the Oakland Police Department, California.

"I am writing to thank you for the interest shown and the courtesy extended me in the case of the *People* v. *J. M., K. J. and C. T.,* charged with arson.

"I, in company with other officers, had worked on K. J. and C. T. for two days and nights, but were unable to have them admit their knowledge of the fire or connection therewith. Therefore, I determined to take them to Berkeley and put them on the Lie Detector which had already been successful in several cases for our office. It was clearly demonstrated to me that the ordinary questions asked these defendants were truthfully answered from my observation and what little knowledge I have of the machine; but when it came to answering questions which would connect them with the commission of the crime and I knew their answers were not truthful from the investigation previously made, it was clearly shown by the markings on the machine that they were not telling the truth, and then in framing questions which the defendant, when hearing, necessarily knew that his pal had previously told the truth, the defendant readily answered truthfully and it was plainly indicated on the instrument, I believe that the effect of the test upon the defendant affects the power within, in other words his conscience, and he is then given to tell the truth.

"In all cases we had up with you they have worked successfully. I believe in giving this machine to the people who are interested in criminal investigation. You have rendered a great service and I congratulate you upon your success."—W. M. Neaale, Under Sheriff, Martinez, California.

If such technique is ever adopted and proves practical for preliminary determination of the innocence or guilt of the suspect, the inevitable result will be the elimination of brutal and ineffective methods.

(For information in respect to the technique and experimental data see: Journal of Experimental Psychology, December, 1923; Vol. XII, No. 3, November, 1921, JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY; and a monograph now submitted for publication. To those interested in the actual technique the following correction is

important. Through an oversight on the writer's part it was stated that the blood pressure curve is obtained at the systolic pressure. For receiving the best results the Erlanger (or continuous blood pressure) curve should be maintained so that the pressure is between the systolic and diastolic pressures, as indicated by Erlanger, Trotter, Edson and Gesel (American Journal of Physiology, 1922).)

The following data and conclusions are based upon experimental protocols obtained by the writer:

TABLE 1.

Cases All Cleared by Confession or Check, in Berkeley, at Time This Analysis Was Made

Total number of cases cleared		249
Total number of individuals in above cases		528
Total number who confessed	53	
Total number who lied and confessed	129	
Total number who lied and checked	36	
Total number who were cleared	310	
Property recovered in cash		$8,000

TABLE 2

Distribution of Cases

Burglary	28
United States Laws, Bootlegging	3
Miscellaneous	11
Sex	36
Larceny	166
Murder	5
	249

TABLE 3

Cases Which Because of Lack of Confession or the Disappearance of the Suspects Have Not Been Cleared Up

Total number of cases not cleared	64
Total number of individuals examined	*333

*Of the 333 individuals examined in the 68 unfinished cases, 267 were eliminated or cleared by their records.

TABLE 4

Total number of cases investigated	313
Total number of persons tested	861

SUMMARY

In the first place, there is the question of legality. The consensus of the opinion of the last convention of the chiefs of police seemed unfavorable to any deception test. Of course, no suspect can be compelled to submit to the test, but of the hundreds of individuals examined, only three refused and each was guilty and followed legal advice. In several cases the suspects were tested and

then told that their tests were unfavorable and requested to submit to a second test; they refused. It is significant to note that in each of these cases the suspect lied and was guilty of the alleged crime.

It is relatively easy to elicit the requisite co-operation. The suspect is told that he happens to be under suspicion in regard to an alleged crime and that it is our desire to eliminate him, if possible. The suspect is often glad to have such an opportunity (for in many cases suspicion has been wrongly fastened upon an innocent individual) and if guilty, the suspect does not dare to refuse because he is afraid that such a refusal may appear suspicious. It is important to note that in every case examined the emotion of anger did not vitiate the test in any manner. In fact, if the proper procedure is followed there not only is no anger, but if reported the suspect is open to suspicion. In only two cases have the suspects alleged that anger was present and each subsequently confessed. As a result of the introspection of all of the other individuals, in no case was there sufficient resentment present to be termed anger. In several university students (girls) there was a certain feeling of resentment, but the feeling was generally directed at the entire situation and in no way interfered with the records. Therefore, if the proper procedure is followed, the result is that the reaction of the suspect, if guilty, becomes defensive and his fear increases instead of diminishes with the progression of the test, whereas if innocent he becomes reassured as the test proceeds, and fear diminishes although under considerable tension at first. In the case of minors, the consent of the parents is easily obtained.

Aside from the consent of the suspect, the question of evidence of such records assumes legal importance. Here there is a two-fold significance, for there is the question of the legality of a deception test in court procedure, and that of the value of a confession which may have accrued through such a test. Marston's adherents have on several occasions attempted to use a deception test in court, but in most instances have met with the opposition of the court. The present attitude of the court suggests that it is too premature to attempt to secure court cognizance. Before such an attempt is made there is a necessity for much experimental work with thousands of actual cases of deception, which have been successfully dealt with. It will only be by the correlation and standardization of thousands of cases by experts using uniform technique that the time will be ripe for court presentation. Without data drawn from thousands of cases of deception from all types of temperaments under all condi-

tions a judicial court decision will be impossible. However, for the purpose of practical police investigation the present deception test, or allied ones, are useful, for not only may the necessary scientific data concerning the validity of such a test be secured, but the public may be benefited by the solving of cases and the elimination of innocent persons. The present test has in no way interfered with the legal status of the case during the past three years during which it has been in active operation in criminal investigation. In actual police investigation the test is used not to furnish court evidence, except indirectly where confessions result from the test, but as a means of ascertaining whether or not the given suspect is implicated in the alleged crime. The police have been enabled to attack and solve cases in which all other methods had failed. A typical case is that in which forty or fifty or more college girls or men are living in a club and a series of crimes have been committed with no evidence except that someone in the house seemed to be responsible. In such cases the residents are requested (in many invstigations they have demanded to be eliminated) to submit to the test. It is important to mention that after the record is secured, the subject is removed from the room and is turned over to the officer in charge. The report of the test is then given to the suspect and in most cases he confesses—if not at the conclusion of the test—then within a few days. The guilty individual then writes out a confession as in any other case and this may be, and has been, used as evidence in spite of opposing attorneys. Even though no recognition is ever granted by the courts, a deception test is invaluable wherever there has been deception.

In conclusion as to the functions of a deception test and its legal aspects at present, it might be instructive at this point to quote the opinion of an eminent jurist in regard to such test. The following is an excerpt from the "Reports of the American Bar Association," Vol. XLVII, 1922, p. 612: "At the conclusion of his most interesting talk, Hon. Andrew A. Bruce, Professor of Law of the University of Minnesota, spoke on the 'Possibilities and Limitations of Modern Medico-Psychiatric Methods.' He compared the Lie Detector as a wonderful thing fo rthe probation officer or a man in a penitentiary to experiment with, but was a little doubtful as to its efficiency in a court of law as a positive basis for conviction or acquittal. He very much doubted if a jury could be gotten to pay any attention to a Lie Detector, and spoke of such a trial as similar to the old-time 'trial by ordeal.'"

The following conclusions seem warranted:

1. Just as the ancient judicial inquisitional method of the "Question" by torture failed in eliciting a true confession, but as often extorted false confessions, so do the brutal police methods. In the same manner that the better intellect of the judiciary and public finally condemned inquisitional methods as unhumanitarian so the public and better type of police official of the day are gradually repressing brutal questioning of the suspect by ignorant and brutal inspectors. Recognizing a necessity for a better type of mind, salaries and standards are being raised so that it will no longer be uncommon to see men with college educations patroling the streets and conducting cases scientifically and in a humanitarian manner.

2. The existing judicial methods of determining the truth or falsehood of the witness are unscientific and inadequate. If a judge, as a result of years of study of human nature, cannot do this a jury of laymen with all of its petty biases certainly cannot render a fair verdict. That the judge recognizes his inability to unravel the perjuries present in a criminal trial can be seen in the writings of any broad-minded jurist.

3. Recognizing the necessity for a deception test the query is raised which, if any, of the so-called "Lie Detectors" has any practical merit and can be used in daily poilce and criminal procedure? Wigmore, Crane, and others have pointed out fallacies and dangers of the usage of the association method. (Reaction-time, "guilt-diagnostik.") Of all deception technique, the association method seems the least satisfactory. In this work during the past three years in most cases, and especially when dealing with clever recidivists, although the graphic record showed considerable significant disturbances during the deception, the reaction time method showed nothing.

4. At the present stage of our knowledge the exact mechanism underlying the deception syndrome is theoretical to a great extent. It seems safe to assume, however, that fear plays an important role in the type of deception or suppression encountered in criminal investigation. With the contradictory reports as to the effects of emotions, as translated into physical pneumo-cardiac or other reactions, a specifity seems unwarranted. That is the effect of anger, or fear, pleasure, pain, etc., assuming that specific stimuli are found to make this condition, does not seem to cause a specific physical reaction. Thus a disturbance in a galvonometer, graphic record of cardiac or respiratory action, etc., may be interpreted as having been caused by one of several factors as a combination of these factors. Assuming

this to be true the problem of a deception test will be that of differentiating the disturbances produced as a result of deception, or of guilt, from those or an absence of reaction where no deception is present. Of course, if it is found that certain emotions or elements have specific types of reactions as indicated by galvonometric cardio-respiratory curves and the reaction of anger can be differentiated from fear, etc., then it may become possible to recognize the factor or factors present in the emotional disturbances which may accompany deception.

5. The present research based upon all types of criminal deception in subject ranging from the juvenile delinquent and the man accused of his first serious crime to the recidivist in the penitentiary denying his guilt, seems to indicate that a deception test is and can be made practical. How accurate any deception test is and can be made can only be determined by accumulation of hundreds of thousands of cases with a proper co-operation between the investigators. At the present moment the results of one worker are reported and the tendency does not seem to be to attempt to check his results by actual research, by well-trained workers, but to attack the technique and conclusions he has arrived at from the lecture room, or the armchair of the study.

Instead of attacking each other, committees of well-trained research workers could be appointed to direct, stimulate, and standardize the utilization of the approved deception technique in field work so that the proper estimation of the validity of a method can be obtained.

6. For practical usage in police and judicial investigation the simplest technique productive of satisfactory results seems to be obtained by the use of the polygraph method. Instead of using a galvonometer of any type respiratory and cardiac tracings are obtained. Of all pulse curves, caratoid, radial, apex, venuous, femoral, etc., as obtained by the ordinary type of polygraph such as the Sanborn, Jaquet, MacKenzie, etc., Dudgeon sphygmograph, the curve as obtained by the Erlanger sphygmomanomete, Halle's modification, or similar devices seem most suitable. In addition to securing pulse curves the continuous pressure curve may be obtained. Changes are now secured which are lacking in the ordinary pulse tracings.

A respiratory tracing should always be included, although the elaborate apparatus as devised for studying inspiratory-expiratory ratios seem unnecessary. Although the cardio-respiratory disturb-

ances are interrelated, yet often the record of one may show more disturbance than the other and often the inhibitory effect shown in the cardiac curve may be associated with a simultaneous similar effect in the respiration. In young children the respiratory curve may seem a better indication of emotional disturbance than the cardiac. It is doubtful if any rules can ever be formulated so that the exact type of disturbances can be predicted in advance. Of course, certain types of individuals in general may react certain ways, thus in one there is a progressive increase in frequency, and amplitude of beat, and in another the increased tension is manifested by inhibitory effects while in a third, combinations of these will occur.

7. That the objections that the fear or anger of the innocent suspect need not vitiate a deception test has been proven, in cases actually tested. Thus, innocent men accused, and identified, of murder, burglary, etc., have been eliminated by the records. In some cases it has been possible to select and eliminate the innocent girls from large numbers of suspects. How far this is possible can only be determined by extensive investigation.

8. The present technique furnishes an objective method whereby permanent records may be secured and filed away. A wrong interpretation does not invalidate this test as the record is permanent and does not depend upon the opinion of the examiner, but when definitely checked, can be used as criterion for the next case of a similar nature.

9. It is impossible in cases of conscious deception, to show the difference between the record of an individual before and after confession, when the same questions are asked.

10. Pathological or physiological factors do not interfere with the interpretation of the records, provided that the suspect is conscious of deception, if present, as the condition of the subject can be obtained in the first portion of the test. Thus the time of, say, relation to meals, sleep, etc., in no way interfere with the test since the changes in the record are relative and the condition, pathological or physiological, is ascertained at the beginning of the experiment and any changes due to deception will cause variations in the record. In some cases the writer has obtained typical effects although the suspect had fainted and in one case had experienced an epileptic attack just prior to being questioned. Again, innocent suspects who were trembling and even crying at first, were easily eliminated during the test.

11. The experience of the suspect need not interfere with the interpretation of the record. The records of recidivists in crime are as easy to interpret as those of first offenders.

12. In cases of so-termed "experimental deception" (where students are instructed to lie for experimental purposes and the element fear can play but an unimportant role), definite changes may be found, but not as easily as in criminal cases of deception. Such cases should not be used to check the relative efficiency or practicability of a test in actual court cases of deception or wherever a deep fundamental element is involved.

13. As a result of actual operation in criminal investigation, the present technique seems to afford a practical and relatively simple means of detecting deception. In this work a man endowed with ordinary intelligence and who has had experience in handling court and criminal cases, can learn to conduct the test with a fair degree of accuracy, and officers who have had no previous training except in police investigation, have operated the test successfully in at least 90 per cent of the cases handled by them.

14. Of course, in records where the emotional changes are so apparent and the different phases of the same individual can be seen in the same record, measurements are unnecessary. The data including frequent changes, etc., will be later compiled from the hundreds of cases tested for comparative purposes, if necessary. The most convincing factors are those which can be easily observed, such as differences in the records in the same individual before, during, and after deception.

15. In all cases of deception yet examined the records differ from those, not only of the same, but different individuals in whom no deception is present.

16. The present technique affords a very valuable tool for the psychiatrist in the detection of complexes as well as the psychologist in the attempt to isolate and study nervous emotional elements. By its use the resistance of the subject may be quickly overcome, usually, and the necessary rapport secured.

17. Two types of deception are being studied. In the first of these the subject is attempting to observe the examiner and to cover up his guilt. In the next type, as in the psycho-neurotic individual, he is endeavoring to deceive himself. If he is not successful there may be a decided emotional content which can be detected. The malingering type is included here.

18. It is a well-known fact that a large percentage of men in the penitentiary deny their guilt. Of these only a very small number are actually listed, not over 50 per cent, if that large. Some claim innocence as a "matter of principle," never to "cop a plea in court;"

others think that their cases may be benefited. The present test is being used in the penitentiary on all cases in which there is a denial of guilt. The results are interesting and they will be published later. During this work the reaction of the subjects as a whole is interesting, for aside from a few who voluntarily submit and may be innocent or expect to "beat the test," many are afraid of the adoption of such a test. They are afraid that "the parole board will get something on them." Of course, such a test would be of value in gaining the assurance that the person was really sincere and not merely on good behavior so as to get out. Just as in psychiatrical study a deception test is of value in gaining the rapport of the subject who is lying about sex, so here the suppressions about delinquency might be removed if the test were used and were practical.

19. Although investigators have attacked the problem of a suitable deception test for years in both the physical and psychological laboratories, the masterly work of Marston, Benussi and Burtt have aroused new enthusiasm in this, as yet pioneer field. In the police field the work of Waterbury in Berkeley, and later that of Keeler in Los Angeles is noteworthy. It will be only by the tireless efforts of such investigators that the necessary co-operation will be stimulated with the ultimate result that through the combined work of all, the deception-syndrome may be an analyzable quantity. Whether the final and best apparatus is the Tycos or Erlanger sphygmomanometer, the pneumograph galvonometer, reaction-time, or combination of all, is immaterial as long as decisive insight may be gained towards the solution of the problem.

In reference to court procedure, these records are permanent, are easily preserved, and could form the basis for court use if the necessary standards or data are first accumulated. However, to qualify as experts to pass upon these records with scientific accuracy the expert should be a person with a sound pscyho-pathological knowledge and a student of abnormal behavior.

20. The polygraph method in which a continuous blood pressure tracing is obtained has proved to be of practical value as a deception test in practical police procedure. Although in the past a high degree of accuracy has been reported by the use of this method by the author and his co-workers the real accuracy can only be determined by the co-operation of many workers using standardized and uniform procedure working with the heterogenous data to be obtained in police investigation. Even if the test enabled an accurate determination of the innocence or guilt, deception, in only 50 per cent of the

cases such results would be well worth while. Since it was the purpose of the writer when this work was commenced to test the practicality of the physical criteria as obtained by graphic and objective records in actual police investigation the opinions of the police officials should be of interest.

This present method, graphic recording of blood pressure, breathing, etc., as described in the second part of this work was made a part of routine investigation by the officers of the Berkeley police department in 1921. Much of the valuable data accumulated in this department was obtained by Patrolmen Waterbury, Wiltberger, Fisher, and Wilson and Inspector Greening. In addition two inspectors from Oakland, Sheriff Veale from Martinez and Marshal Glovenovitch of Albany co-operated in bringing in their problem cases for examination. During the past year Keeler, a student at the University, who had shown marked interest in the work, introduced the test in Los Angeles in police procedure with the co-operation of Chief Vollmer. Associated with Keeler is Sloan. In both cities satisfactory results have been obtained.

21. The experimental data secured by the writer and reported here is not and should be by no means regarded as conclusive or final. It will only be by the securing of thousands of records, using standardized technique, that any idea of the actual accuracy of a given deception test may be obtained. Marston, with his discontinuous method reported a high degree of accuracy, 95-100 per cent; Benussi reports success; in addition to the positive results obtained by the writer similarly favorable data have been secured by Keeler and Sloan of Los Angeles. Using a similar technique, a captain of detectives reports no instance of failure. The work was done independently, and yet the results were equally favorable. Due allowance having been made for the enthusiasm of the workers who are optimistic in their prognosis of the future for deception technique it seems that the writer is justified in stating that regardless of minor discrepancies reported on the part of various workers, deception technique has become a very valuable and indispensible method of examining a witness or anyone whose veracity in criminal procedure is questioned. The difficulties, attendant upon the attempt to study and evolve a suitable deception technique are discouraging at times, but surmountable if due care be taken. Aside from the skeptical and scornful attitude of jurists, police officials, and scientists who are loud and active in cricism but silent in attempts to furnish experimental proof of their criticisms, it should be relatively simple

to secure hundreds of thousands of checked records. Up to the present time the attitude of the public and critic has been unscientific and unco-operative. To test a given deception technique scientifically it should be possible to examine suspects or witnesses when first apprehended. The records secured should be checked and labelled when positive proof is available, and otherwise filed away. Then when the case is cleared up, as by the confession of the guilty party and restitution of the stolen property, etc., the records not labelled (as to whether the suspect answered each question truthfully) could then be labelled. Also every witness, including attorneys and defendant in a given case, could be tested. Again the witness or suspect should be tested before any cross-examination or attempt to induce him to confess. Instead of that the procedure has been reversed. Usually after all other attempts have failed the suspect has been brought for the test. The demand then has been for the correct interpretation following the test. If the interpretation later proves incorrect the test is promptly rejected and ridiculed by the press and officials. The fact that the interpretations have been so accurate in practice field work warrants the usage of such technique in all investigations.

22. In addition to the examination of delinquents in respect to their innocence or guilt, a suspected deception on questions of the psychiatrist where a suppression is suspected or where there is resistance in children, are being studied at the Institute for Juvenile Research, Chicago, Illinois, by the graphic method. By the use of "key" questions, selected from several hundred, resistances may be found and conflicts unraveled.

23. The question of a confession is independent, essentially, of the deception technique. The records are permanent regardless of whether or not a confession ever follows. However, with the utilization of some common sense no difficulty need ordinarily be encountered. Thus, instead of showing the suspect his record and claiming that it shows evidence as of guilt or deception, the suspect should be made to do his own accusing. The following method has been successful with even the cleverest of criminals. Following the test in which the subject is acquainted with the fact that he has been examined as to deception concerning his crime, the subject is returned to his cell or released with nothing being said at all. The officers are instructed not to discuss the crime at all. Within a day or so the subject is usually anxious to talk about the outcome of his test. He may even ask what his record showed in respect to a certain ques-

tion. In some cases the subject was not in confinement and he or she demanded to know the outcome of the test. The record was then shown after the suspect had been shown checked records showing the presence and absence of deception and told that his record did not clear him. In one such case the subject, a girl, explained the disturbance as being due to the fact that she was insulted. (Yet of all the girls given the same test she was the only one so "insulted.") She was then told that the investigation would have to be continued, that as far as she was concerned it was finished. After repeatedly calling up the station for some three weeks, she finally confessed.

24. A type of objection is that offered by a certain type of theoretical psychologist, or investigator, who does not attempt to solve any problem by analysis of experimental protocols based upon his own investigation, but merely objects to a certain procedure upon theoretical grounds only. Such an individual, when shown disturbances in the records of a subject, while he is lying, even though these disturbances may be indirect contradiction to the type of record furnished by the same or different suspect when not lying, says that such methods are too empirical. They, furthermore, very ingeniously and naively add that owing to the complexity of the emotions which may be involved in deception, plus the intricate physiological mechanism involved, such as the endocrine changes which in turn may cause resultant changes in the respiratory and cardiac rhythm, that we have no right to label any portion of the record as that due to deception. In order to see if the record of one individual could be differentiated from that of the same or different subjects when lying, in contrast to telling the truth, the first and relatively important step in the procedure is to accumulate such material which has been positively checked. In such cases it is perfectly permissible to label a given question a lie when for a fact that this given individual did lie. It can be shown experimentally that certain disturbances may, and do, appear in many individuals while they are lying, and these same disturbances may be entirely absent in the case of the same or different individuals who are telling the truth. As to the actual mechanism involved in the production of these disturbances, such as the relative role of the factors of anger, endocrine changes, or respiratory and cardiac transformations, this is not of immediate concern in the evolution of a practical deception test. Obviously, if the records of individuals who are telling the truth, can be differentiated from the same or different individual who is lying, the next step is to ascer-

tain how far this differentiation can be secured. It is obvious that the records of individuals who are requested to lie for the purpose of experimentation in a given deception test may be entirely different from that of the individual who may be lying in a criminal case in order to defend his life or liberty. In a word, this difference, if present, is due to the appearance of an emotional content which may vary in the individual and with the type of case. Thus we certainly can say that of the various elements which may be present in the deception syndrome, fear will play a much more important role in criminal cases than in the experimental and artificial types of cases, such as ordinarily performed in university laboratories. What other factors may appear in the deception process as encountered in the criminal laboratory need not necessarily be differentiated in the attempt to devise a practical deception test.

25. A similar type of objection is that such as the following: "Instead of working with graphic records showing respiratory rhythm and changes in blood pressure and pulsations, the oxygen metabolism should be studied before and during, as well as after, deception." Obviously if the respiratory and cardiac curves show increased frequency and force, a study of the oxygen intake and carbon dioxide output, and so forth, should indicate corresponding changes. Using this method the theorist has advanced no further in this case than the other, for he has not explained what changes were involved in the production or diminution of the oxygen consumption. Similarly the amount of adrenalin liberated during a deception test might easily be studied and could be added to the deception technique, if necessary. As might be expected, according to the hypothesis of Cannon, with increased fear there should be a greater liberation of adrenalin and the amount, therefore, should be expected to vary according to the amount of emotional disturbance concomitant with deception. However, if the graphic record shows a great emotional tension during deception one would expect to find no adrenalin or a greater oxygen combustion. These factors if evaluated would add to corroborative material, but are not essentially necessary at this stage of the investigation. However, it would be relatively simple to test amounts of adrenalin present in the blood by the standard laboratory methods. The extent to which this may be done will depend upon the extent to which a specific stimulus may be evolved which will act with a specific emotional element or elements.

26. Naturally the correct interpretation of a record necessitates a knowledge of the experimental stimuli as well as the answers to the

questions. Thus, in some individuals a confession during the test may be followed by a graphic disturbance. For example, a certain type of subject may suddenly break down and weep. However, following the confession the rest of the record usually presents no disturbances. The disturbances due to confession fundamentally need not differ, as far as graphic representation is concerned, from those due to deception. But the correct knowledge of the experimental conditions render the interpretation possible. Cases have been examined in which the disturbance due to confession did not clear up, and upon re-examination it was found that the confession was false to begin with. It should be remembered that any disturbances due to deception or other factors present in psychiatrical cross-examinations merely represent fundamentally a complex, a painful series of associations in this case. The question then becomes that of differentiating a complex due to deception from that of other origins. This can be done to a great extent by the experimental procedure adopted. And the fact remains that in practical investigation it has been possible to show graphically a difference when the subject is denying his guilt, lying, from that when he is answering truthfully, once the suppression has been removed. Again it has been possible to distinguish the record of a lying suspect from those of other innocent suspects in the same investigation. An interpretation of a record is rendered much easier, with more accurate results, when the technique involves deception. Although graphic disturbances may be obtained even though the suspect does not answer the questions, provided that painful associations are touched upon, the disturbances seem more pronounced if the subject lies in answer to questions.

In recapitulation, it is certainly permissible to label a given change as produced by deception when it is known that deception has actually occurred, and it can be shown in many cases that the records of an individual showed marked variations when he lied, as compared to when he told the truth. The factor, or factors, which cause this difference were due to the emotional reactions of the individual in question, and directly concerned the deception process to a great extent, for the external, or experimental, stimuli were identical; thus, in answer to the question, "Did you kill Tom Jones?" the record of the individual will vary according to whether the answer was "Yes" or "No." Of course, it will only be by the accumulation of thousands of records, and a careful standardization of technique, that it will be possible to learn how far a given deception technique may be practicable. The fact that in all of the important cases tested the

experimenter has been able to differentiate the records of individuals of those who were guilty from those who were innocent, as verified by subsequent check, suggests that a deception test may become practical. At present much of the feeling expressed and many of the demands made for a given deception technique have not been made in a scientific manner or with an open mind. Obviously, to test the reliability of any deception technique one should be able to compare the material obtained from known cases of deception with unknown cases. In this work, however, those working with deception investigation have been expected to accurately differentiate and predict cases of deception or of innocent suspect from those of guilty ones. The fact that it has been possible to go in to the police laboratory, or actual field work, and to differentiate the lying individual from the the one who is telling the truth, although so little is known, concerning the actual mechanism involved, is very suggestive and helpful in the elaboration of a deception technique. Then, after having secured thousands of records, in which it is actually known at what points the individual did or did not lie, it may then be possible to compare the unknown record with a much greater degree of certainty than is now possible. On the other hand, by the study of such disturbances these records may furnish the means of evaluating the various factors involved in a given emotional reaction.. For practical work and the later securing of the confession a deception procedure seems to promise the best results. Thus if the subject is told that he is being tested for deception and then lies he is much more liable to confess than if he is only tested by association words and is less able to give false explanations as to a given disturbance. Thus the reaction to the question, "Are you guilty of this crime?" is apt to be much greater if the answer is false than in the case of words being given among which the word "guilty" is present. For in addition to the painful associations initiated by the crucial words other factors are present; thus, as tested by actual introspection, subjects have said that after answering the question falsely they worried as to whether or not the effects of deception were shown and they "were frightened," etc. The interpretation becomes much more definite in the use of simple direct questions, since the question becomes one of deception instead of attempting to theorize about probable associations initiated by apparently crucial words. Words crucial to the examiner are not crucial to the subject in all cases. Again through the increase of tension on the part of the subject as to the nature of the questions, as he must be careful to answer all incriminating questions falsely,

there may be a greater reaction than when simple words are given.

27. A survey of the data accumulated up to date seems to indicate that deception technique should be an indispensable part of all investigations. Regardless of the accuracy which may be obtained in the interpretation of the results of any deception technique an individual should never be executed on the strength of such material; although, on the other hand, a man might safely be saved from the gallows if his record seemed to clear him. If the results of a dceeption test seem diametrically opposed to what evidence has been accumulated, further investigation can be made with the result that the discrepancies may be cleared up. Every individual under suspicion in criminal investigation could profitably be tested. If handled properly, deception technique need never in any way vitiate or interfere with the impartial administration of justice.

Addendum

At the present time research workers are attempting to eliminate many of the errors and variables present in the securing of blood pressure curves. The following are the methods now in use for recording the blood pressure curve graphically:

1. Erlanger's method (Vol. XV, Journal of Experimental Medicine).

2. Method of Kolls (Journal of Pharmecology and Experimental Therapeutics, Vol. XV, No. 5, pp. 533, 1920). In addition to the Erlanger Capsule or Sphygmoscope, Kolls makes use of an electro-magnetic valve and obtains a continuous blood pressure tracing which he recommends for blood pressure study.

3. Method of Keeler and Sloan, which includes besides a polygraph tracing of the blood pressure curve, respiratory, muscular tension, and electrical variations caused by the heart. An account of this work has not yet been published. These workers are attempting to eliminate many of the variables and produce a curve in which the quantitative changes in pressure can be obtained as well as changes in character of beat.

It will only be by the careful standardization and co-ordination of researches of various workers that the essential improvements will be made and the variables may be removed and controlled. The fact that it has been possible to obtain results in the past with the existing crude apparatus should stimulate investigation in all fields, not only in the study of deception, but in the seeking of complexes or resistances by the psychiatrist, the study of emotions in the psychological laboratory, etc.

4. Blankenhorn, M. A.—Automatic Method for Serial Blood Pressure Observation (Journal of American Medical Association, 78, 90, July 9, 1921).

5. Fantus—Modification of the Erlanger Oscillometer with Addition of Mercury Manometer (Journal of American Medical Association, 68, June 16, 1917.