Iowa State University

From the SelectedWorks of Christian A. Meissner, Ph.D.

January 2009

False confessions

Contact Author

Start Your Own SelectedWorks

Notify Me of New Work

Available at: http://works.bepress.com/christian_meissner/39

FALSE CONFESSIONS

Christian A. Meissner, Allyson J. Horgan, & Justin S. Albrechtsen
University of Texas at El Paso

Full Reference:
Meissner, C. A., Horgan, A. J., & Albrechtsen, J. S. (2009). False confessions. In R. Kocsis' (Ed.), *Applied criminal psychology: A guide to forensic behavioral sciences* (pp. 191-212). Springfield, IL: Charles C. Thomas Publisher, LTD.

FALSE CONFESSIONS

Jeff Deskovic was 16 years of age when he falsely confessed to the rape and murder of a 15-year-old classmate. He confessed to this crime following an intense interrogation that was conducted by multiple police investigators lasting more than six hours. Police first suspected Deskovic because he was late to school the day after the girl had disappeared, and because he appeared overly emotional and distraught when asked about her death. During his interrogation, investigators lied to Deskovic, accused him of failing a series of polygraph examinations, stated that they were convinced of his guilt, and offered him rationalizations for his apparent violent behavior. The pressures of the interrogation finally led Deskovic to confess to the brutal murder as he sobbed inconsolably and lay in the fetal position underneath a table.

Investigation into the murder and rape of Deskovic's classmate revealed semen on the body that was later tested against his DNA sample. Deskovic was informed by investigators that if his DNA failed to match that of the specimen collected, he would be released. Unfortunately, Deskovic underestimated the power that his confession would have – although the DNA evidence excluded him as the donor of the semen, Deskovic was prosecuted for murder and rape based upon the statement he had provided to investigators. A jury convicted Deskovic and he spent over 15 years in prison until he was finally exonerated in 2006 through the use of more sophisticated DNA technology. The actual perpetrator of the crime, Steven Cunningham, was later identified through a DNA database.

FREQUENCY OF FALSE CONFESSIONS

Similar examples of false confessions leading to wrongful conviction can be found in the United States, Canada, Great Britain, Australia, and around the world. In the U.S., organizations such as the Innocence Project (see www.innocenceproject.org) have worked to identify instances of wrongful conviction and to delineate the causes. To date, more than 215 wrongful convictions have been discovered, and nearly 25% of these cases have included false confession evidence. While other studies of wrongful conviction have produced similar estimates (Bedau & Radelet, 1987; Scheck, Neufeld, & Dwyer, 2000), it appears that juveniles may be particularly vulnerable to the power of the interrogation room. In a study of 328 wrongful convictions in the U.S., Gross, Jacoby, Matheson, Montgomery, and Patil (2005) found that 44% of juveniles provided a false confession when compared with only 13% of adults in the sample. Among the youngest, those 12 to 15 years of age, the incidence of false confession rose to 75%.

While there has been a notable surge in the frequency of false confessions discussed in the media, the actual rate of false confessions in practice is difficult to determine (cf. Leo & Ofshe, 1998). In a recent review of the literature, Gudjonnson (in press) examined the frequency of false confessions reported by individuals who had been interrogated in actual cases. Prisoners reported false confession rates between 12% and 24%, while community samples reported incidence rates between 1% and 14%. Viljoen, Klaver, and Roesch (2005) found that 6% of juvenile defendants reported having provided a false confession, while studies conducted by Redlich and colleagues (Redlich, 2007) found that 22% of defendants with serious mental illness reported having provided a false confession. Finally, a survey of police investigators in the U.S. who regularly conduct interrogations estimated that 5% of "innocent" suspects provide a false confession (Kassin, Leo, Meissner, Richman, Colwell, Leach, & La Fon, 2007). While it may be difficult to estimate the precise incidence rate of providing a false confession, these studies make

clear that the phenomenon occurs and is regularly reported by suspects and police investigators alike.

In an archival study, Drizin and Leo (2004) located and analyzed 125 cases of "proven" false confessions in the U.S. that occurred between 1971 and 2002. Over 90% of these cases involved charges of murder or rape. One-third of the cases examined by Drizin and Leo concerned juvenile offenders (under the age of 17), 10% of the sample was considered "mentally ill," and 22% of the sample had been diagnosed as "mentally retarded." Nevertheless, the majority of cases investigated by the authors involved adults of normal mental health and mental capacity. Owing to the power of confession evidence, Drizin and Leo found that 81% of defendants were convicted at trial based upon a false confession. An additional 11% chose to plead "guilty" prior to trial in order to avoid the possibility of receiving the death penalty. Following conviction, 80% of these innocent defendants were sentenced to more than ten years in prison and 61% spent more than five years incarcerated prior to exoneration.

Taken together, these data demonstrate that the false confession phenomenon occurs in our criminal justice system to a significant degree, and that it is associated with severe consequences for the innocent suspect. Several decades of research have now examined false confessions both from the field and, more recently, within the laboratory (see Gudjonsson, 2003; Kassin & Gudjonsson, 2005; Lassiter & Meissner, in press). This chapter will review our current knowledge of the false confession phenomenon, including the typology of false confessions most frequently observed, the situational and psychological factors that lead to the phenomenon, and recent attempts at reducing the likelihood of false confessions in practice. The chapter will conclude with empirically-based recommendations for best practice in the interrogation room.

TYPOLOGY OF FALSE CONFESSIONS

Analysis of the variety of false confessions observed in the real world led Kassin and Wrightsman (1985) to delineate three types of false confessions: voluntary, coerced-compliant, and coerced-internalized. First, a *voluntary false confession* is one in which a person falsely confesses to a crime absent any pressure or coercion from police investigators. Gudjonsson (2003) discusses a number of reasons why someone might provide a voluntary false confession, including the desire to protect someone else, a desire for notoriety or attention, or an inability to distinguish reality from fantasy. Research indicates that the desire to protect someone else is likely to be the most common motivation behind a voluntary false confession (cf. Sigurdsson & Gudjonsson, 1996). A recent example of a voluntary false confession was that of John Mark Karr who confessed to the murder of JonBenet Ramsey in 2006. Karr had become obsessed with the Ramsey murder and ultimately made statements implicating his involvement in her death. Ultimately, DNA evidence from the Ramsey murder failed to match Karr's samples and testimony from relatives was provided to conclude that he was elsewhere when the incident occurred.

Coerced-compliant false confessions occur when a person falsely confesses to a crime for some immediate gain and in spite of the conscious knowledge that they are actually innocent of the crime. An individual may falsely confess to escape the pressure of the interrogation or because they believe (or have been led to believe) that they will be allowed to go home, to sleep or eat, to call their family, or that doing so will alleviate them of the charges against them. In general, suspects come to believe that the short-term consequences of confessing (e.g., ending the interrogation) will outweigh the long-term consequences of confessing. The vast majority of

false confessions observed to-date likely fall into this category. For example, many are familiar with the 'Central Park jogger case' in which five teenage boys (aged 14 to 16) confessed to attacking a 28-year-old woman in New York City. The interrogation of these boys lasted between 14 and 30 hours, and the suspects would subsequently claim that they had provided the investigators what they wanted to hear and that they were led to believe that they would be sent home thereafter. Subsequent investigation led to identification of the true perpetrator, Matias Reyes. DNA testing exonerated the five boys and led to Reyes' conviction.

The final type identified by Kassin and Wrightsman (1985) is referred to as a *coerced-internalized false confession*. This occurs when a person falsely confesses to a crime and truly begins to believe that they are responsible for the criminal act. Researchers have suggested that internalized false confessions result from interrogation tactics that manipulate or distort the memory of the individual, causing them to develop false memories of their involvement in the crime (Bem, 1966; Henkel & Coffman, 2004). For example, suspects may be asked to imagine, visualize, or speculate regarding how the crime might have occurred. They may be provided details of the crime by the investigator who encourages them to continue constructing a version of the crime. If the suspect fails to remember the event, they may be offered reasons to distrust their memory, including the notion of a black-out or 'repression' of the event, or the potential effects of drug or alcohol inducement on memory (cf. Gudjonsson, 2003). Along these lines, Kassin (1997) suggested that two factors may be common to all coerced-internalized false confession cases. First, the suspect's memory must be vulnerable in some way – such as the use of certain substances, being fatigued during the interrogation, or as a result of a particular vulnerability (such as being young in age, of low intelligence, or highly suggestible). Second, the suspect must be confronted with false evidence of their guilt by the investigator – for example, they might be told that they failed a polygraph exam or that their DNA was found at the scene of the crime. Kassin has argued that the presence of these two factors will likely cause the suspect to question their memory and thereby open the door for suggestive interview tactics to have their influence (see Henkel & Coffman, 2004).

Although relatively uncommon, numerous case examples of coerced-internalized false confessions are available. The most well known case is likely that of Paul Ingram (see Wright, 1993a; 1993b). Ingram was a deputy sheriff who was accused of the satanic ritual abuse of his two daughters. Although Ingram initially denied the charges, he would eventually confess and provide memories of the abuse over the course of five months as he was repeatedly interrogated, was hypnotized to facilitate his memory, and was encouraged to recall the abuse by his church pastor (Olio & Cornell, 1998). Following this internalization of the crime Ingram plead guilty to the charges against him, though he would later recant his confession and seek to withdraw his plea. His request was denied and he was sentenced to 20 years of imprisonment. Evidence was amassed to suggest that the abuse never occurred and that Ingram had falsely confessed to the crime. He was released from prison in 2003, though he has not been exonerated of the charges.

MODERN POLICE INTERROGATION TACTICS

To better understand the psychological and situational factors that lead to false confessions, one must first appreciate the psychological pressures and tactics placed upon any suspect that enters the interrogation room. A variety of interrogation approaches and manuals have been advocated to law enforcement over the past few decades, and it is beyond the scope of this chapter to review each separately. Nevertheless, these techniques can generally be described

as involving two distinct phases. First, a pre-interrogation interview is conducted in which investigators will probe for signs of deceit on the part of the suspect and assess his/her culpability. Once an investigator is convinced of the likely guilt of the suspect, the interrogation phase of the interview will begin. Interrogation manuals, such as that of Reid and Associates (Inbau, Reid, Buckley, & Jayne, 2001) in the U.S., suggest three general tactics be employed during an interrogation, namely: (a) *custody and isolation*; (b) *confrontation and maximization*; and (c) *minimization*.

Upon initiating an interrogation, the manuals suggest that investigators induce a period of isolation in which the suspect is detained in a small room and left to experience the anxiety, insecurity, and uncertainty associated with police interrogation. They should be separated from family, friends, or other support mechanisms, and thereby be made to feel alone and uneasy about their situation. The ultimate goal of the interrogation is to encourage the suspect to rely upon the interrogator and to believe that going along with his/her suggestions (in this case, providing a confession) is in their best interest.

The second phase of an interrogation generally involves the investigator confronting the suspect with a firm belief in their culpability for the crime, and attempts to maximize their perception of the evidence against them and the consequences associated with the heinous act. For example, investigators may lie to a suspect regarding the extent to evidence exists supporting their guilt (e.g., "We have a witness who has identified you." or "The fingerprints left at the scene match those you provided us – how could this be?"). Investigators may also exaggerate the consequences associated with the crime, and will attempt to prevent the suspect from denying his/her involvement. This approach is often thought of as the 'bad cop' routine; and, of course, this is followed-up with the 'good cop' perspective.

In the third phase of an interrogation, a now sympathetic investigator will attempt to gain the suspect's trust, offer the suspect face-saving excuses or justifications for the crime, and imply that a confession might bring about more lenient consequences. Often referred to as 'theme development' or 'minimization', the objective is to provide the suspect a way out of the interrogation room that minimizes both their perception of culpability and their beliefs regarding the consequences associated with confession. For example, an interrogator might indicate: "I know you are a good person, and this was simply an accident. Accidents happen, and the courts don't treat accidents the same as they would an intentional act of violence."

It is important to note that modern interrogations rarely involve physical abuse or threats on the part of the interrogator; rather, the interrogator attempts to psychologically manipulate the suspect's perception of the situation. Given the 'soft' nature of these psychological techniques, many interrogation manuals, such as the Reid Technique (Inbau et al., 2001) argue that these methods will not induce an innocent person to confess. This statement is often the result of a belief that these methods will not be applied against an innocent person, given that a pre-interrogation assessment of the suspect's guilt (or likely deception) will exclude the innocent from the subsequent interrogation phase. Unfortunately, scientific evaluation of this interrogation process, from deception detection to psychological manipulation, suggests that these techniques place innocent suspects at risk.

THREE FACTORS THAT LEAD TO A FALSE CONFESSION

Social science researchers have begun to systematically examine the false confession phenomenon over the past several decades both from the field and within the laboratory (for

reviews, see Gudjonsson, 2003; Kassin, 1997, 2005; Kassin & Gudjonsson, 2005; Redlich & Meissner, in press). Researchers have employed two broad methods to study interrogations and confessions, namely field research and laboratory research. Field research (e.g., observational studies of actual police interrogations or archival reviews of wrongful convictions) carries the distinct advantage of high external validity and generalizability. For example, in a seminal study of U.S. police interrogations, Leo (1996) observed over 300 live and videotaped interviews in an effort to systematically document the techniques employed by investigators. Similar field studies have also been conducted in Great Britain (Baldwin, 1993; Irving; 1980; Irving & McKenzie, 1989; Moston, Stephenson, & Williamson, 1993; Softley, 1980). Archival studies, such as those conducted by Drizin and Leo (2004) and Leo and Ofshe (1998), have similarly provided insights regarding the factors associated with false confessors in real cases, though they do not provide a comparable sample of true confessors from which to distinguish these effects.

While field studies have certainly increased our understanding of police interrogations, like most field research methodologies, these approaches suffer from issues of internal validity in that they lack the experimental controls necessary to eliminate all confounds that might enable researchers to draw causal conclusions regarding the factors responsible for the false confession phenomenon. Because of the limitations of field research methods, a number of researchers have begun to employ experimental laboratory research methods (see Meissner, Russano, & Narchet, in press). For example, researchers have investigated the ability of lay individuals and police investigators to distinguish truths and lies in the context of forensic interviews (for a review, see Vrij, 2007; Bond & DePaulo, 2006), or the influence of pre-interrogative beliefs of guilt on suspect interviews and perceptions of those interviews (see Meissner & Kassin, 2004), or the effects of certain interrogation techniques on the likelihood of true vs. false confessions (Kassin & Keichel, 1996; Russano, Meissner, Narchet, & Kassin, 2006). Although limited by issues of external validity, laboratory research benefits from a high degree of experimental control and internal validity that allows researchers to explore cause-and-effect relationships. To understand the process of interrogation and the psychology of false confessions, researchers have relied upon both of these approaches in attempting to build a bridge from the laboratory to the field, and ultimately to improving practice in the interrogation room.

Taken together, the overwhelming data from these studies suggest that three primary factors appear to be associated with the elicitation of false confessions. First, investigators attempting to detect deception on the part of the suspect appear to demonstrate a bias towards perceiving 'guilt', and research suggests that this *investigative bias* may lead to a pressure-filled, guilt presumptive interrogation that places innocent suspects at risk. Second, both field and laboratory studies have demonstrated the use of *psychologically manipulative interrogation techniques* both increase the likelihood of false confession and reduce the overall diagnostic value of interrogative information. Third, certain characteristics or *psychological vulnerabilities* have been shown to make some suspects more susceptible to providing a false confession. In the following sections we briefly review the research supporting each of these factors.

I. Investigative Biases

The reader will recall that the first phase of any suspect interview frequently involves a pre-interrogation interview in which investigators will attempt to detect deception on the part of the suspect. In a recent study by Kassin, Leo, Meissner and colleagues (2007), police investigators reported that, on average, they were 77% accurate in distinguishing truth vs. deception in a forensic interview. This degree of confidence in their ability to detect deception is

not uncommon – in fact, Reid and Associates claim to be able to train investigators to distinguish truth and deception at an 85% level of accuracy (http://www.reid.com).

Unfortunately, research shows that neither lay individuals nor law enforcement officials are particularly adept at detecting deception, even those who have been trained! For example, Bond and DePaulo (2006) conducted a meta-analytic review of over 200 studies in the deception detection literature and found that individuals correctly distinguish truths and lies with 54% accuracy. Furthermore, the analysis of 'expert' (e.g., law enforcement) vs. 'naïve' (e.g., student participants) found no significant differences in deception performance – in fact, the pattern of means suggested that naïve participants performed somewhat better than the experts!

Meissner and Kassin (2002) further examined the effects of experience and training on deception detection capabilities. When participants were asked to assess the veracity of statements (denials of involvement in a criminal act) that were provided in the context of a pseudo-forensic interview, they found that investigators and trained participants, relative to naïve controls, exhibited a proclivity to judge targets as deceptive rather than truthful. While neither experience (as an investigator) nor training improved participants' ability to correctly distinguish between true and false statements, both experience and training did correlate with a 'deception' response bias – a finding that the authors referred to as 'investigative bias'.

In a follow-up study, Kassin, Meissner, and Norwick (2005) tested a common collateral assumption about the ability to detect truth and deception in an interrogation setting, namely the commonly expressed belief by police investigators that "I'd know a false confession if I saw one." The authors compared the performance of police investigators and lay persons who attempted to distinguish between true and false confessions provided by actual prison inmates in a state correctional facility. Overall, the investigator bias effect was replicated such that police were predisposed to believe both the true and false confessions. That is, the response bias did not lead police to see deception per se, but to infer *guilt* – an inference that rested upon a tendency to believe false confessions. Once again, this investigative bias to perceive guilt was enhanced among those with extensive law enforcement experience and those who had received training in interviewing and interrogation.

The remaining question regards the extent to which such an investigative bias might influence the conduct of an interrogation. Could a bias towards perceiving guilt in a pre-interrogation interview lead an investigator to conduct a more aggressive, pressure-filled interrogation? Kassin, Goldstein, and Savitsky (2003) investigated whether a presumption of guilt might influence the conduct of student interrogators, the behavior of their suspects, and ultimately the judgments made by neutral observers. Participant suspects were asked to complete a mock crime or to complete a related, but innocent, act. These suspects were then subsequently interviewed by other subjects, playing the role of investigators, who were led to believe that the suspect was either guilty or innocent of the crime. Kassin and colleagues found that investigators who were led to expect guilt rather than innocence asked more guilt-presumptive questions, employed more interrogation techniques, exerted more pressure on the suspects to confess, and were more likely to believe that the suspect was guilty. Furthermore, this investigative bias towards perceiving guilt caused the innocent suspects to act more defensively and to be perceived as more guilty by third-party observers!

In a recent study conducted by Narchet, Meissner, and Russano (2008), the influence of an investigative bias was further examined for its influence of the elicitation of true vs. false confessions. Using a 'cheating paradigm' developed by Russano and colleagues (2005), the authors led student interrogators to believe that participants were either guilty or innocent of

sharing information on a problem-solving task with another participant (who was a confederate to the study). The student interrogators had been trained in 15 different interrogation techniques (including aspects of maximization and minimization), and the authors examined the influence of the pre-interrogative information on the conduct of the interrogations, the perceptions of the participant suspects, and the resulting true vs. false confession. Narchet and colleagues found that an investigative bias towards perceiving guilt led investigators to conduct longer interrogations involving a greater number of pressure-filled tactics. Innocent suspects perceived greater pressure to confess resulting from this manipulation, and were more likely to falsely confess as a result. Finally, investigators' initial belief in guilt ultimately led them to perceive that these false confessions were more likely attributable to 'guilty' suspects.

Together, this line of research suggests that investigative biases towards perceiving guilt are prevalent among investigators, particularly those with greater experience and training in deception detection approaches. Given that most interrogation manuals encourage a finding of deception or guilt prior to initiating an interrogation, these studies further suggest that a presumption of guilt sets in motion a process in which investigators conduct longer, more pressure-filled and guilt presumptive interrogations that can lead to the elicitation of a false confession when lodged against an innocent suspect. In the next section, we turn our attention to the specific interrogation tactics that are brought about by this process.

II. Psychologically-Coercive Interrogation Tactics

Interrogation of a suspect is one of the most difficult tasks in a police investigation, and throughout history investigators have resorted to a wide variety of techniques intended to breakdown a suspect's resistance and yield a confession. Interrogation techniques have evolved from overtly coercive, "third degree" tactics (e.g., beatings, sleep deprivation; see Leo, 2004) to modern-day practices that involve more subtle, yet effective, psychologically-based techniques (White, 2003). These modern interrogation practices, described above, are believed to be effective in eliciting true confessions – but could they also be responsible for the false confessions observed in recent cases of wrongful conviction?

Both field and laboratory research have led to the conclusion that common police interrogation tactics, such as minimization and maximization, increase the likelihood of false confession when applied against innocent suspects. For example, research by Kassin and Keichel (1996) found that the presentation of false evidence, a classic maximization technique, increased the likelihood of false confession. A study by Russano and colleagues (2005) observed that minimization tactics, in which a sympathetic interrogator provides a face-saving excuse and implies leniency to a suspect, increased false confession rates. Combining these techniques, Klaver, Rose, and Lee (2003) and Narchet and colleagues (2008) found that the use of both minimization and maximization techniques increased the likelihood of false confession. Both observational studies (e.g., Leo, 1996) and case-based examples (e.g., Leo & Ofshe, 1998; Ofshe & Leo, 1997) confirm both the use and risks associated with such techniques for the innocent suspect.

In its landmark decision of *Miranda v. Arizona* (1966), the U.S. Supreme Court explicitly acknowledged that: "The atmosphere and environment of incommunicado interrogation as it exists today is inherently intimidating and works to undermine the privilege against self-incrimination." (p. 384). It is clear that the context in which the interrogation takes place is believed to play a large role in the success of obtaining a confession – but could this also work against the innocent suspect? Research has suggested that several situational factors inherent to

the interrogation may be associated with false confessions (see Kassin & Gudjonnson, 2005). For example, interrogators are trained to remove suspects from their familiar surroundings and to question them in a sparsely furnished, dimly lit interrogation room. This process of isolation increases anxiety and insecurity on the part of the suspect (Zimbardo, 1967), and studies suggest that a pre-existing state of stress can increase the likelihood of an innocent suspect providing a false confession (Forrest, Wadkins, & Miller, 2002). In addition, false confessions have been found to be associated with lengthy interrogations. For example, Drizin and Leo (2004) found that among their 125 cases of proven false confession, 34% lasted between 6 and 12 hours, 39% lasted between 12 and 24 hours, with an average interrogation length of approximately 16 hours. Such lengthy interrogations are likely to involve deprivations of food or sleep, and research suggests that interrogative suggestibility significantly increases when individuals are deprived of sleep (see Blagrove, 1996).

The psychological processes instantiated by an interrogation have been variously described and evaluated (Gudjonsson, 2003; Hilgendorf & Irving, 1981; Ofshe & Leo, 1997), with a general consensus suggesting that the pressures of the interrogation room lead to a seemingly 'rational decision' for the innocent suspect. In particular, suspects appear to undergo a natural decision-making process when evaluating the alternatives presented to them in the context of an interrogation. As so eloquently described by Ofshe and Leo (1997):

> Psychological interrogation is effective at eliciting confessions because of a fundamental fact of human decision-making—people make optimizing choices given the alternatives they consider. Psychologically-based interrogation works effectively by controlling the alternatives a person considers and by influencing how those alternatives are understood. The techniques interrogators use have been selected to limit a person's attention to certain issues, to manipulate his perceptions of his present situation and to bias his evaluation of the choices before him. The techniques used to accomplish these manipulations are so effective that if misused they can result in decisions to confess from the guilty and innocent alike. Police elicit the decision to confess from the guilty by leading them to believe that the evidence against them is overwhelming, that their fate is certain (whether or not they confess), and that there are advantages that follow if they confess. Investigators elicit the decision to confess from the innocent in one of two ways: either by leading them to believe that their situation, though unjust, is hopeless and will only be improved by confessing; or by persuading them that they probably committed a crime about which they have no memory and that confessing is the proper and optimal course of action (pp. 985-986).

In summary, research examining the use of psychologically-based interrogation methods has confirmed that these methods, while powerfully effective in eliciting confessions from guilty individuals, also place the innocent suspect at risk. In particular, the context of an interrogation works to increase the anxiety experienced by the innocent suspect, while the interrogative methods alter the suspect's perception of reality. Together, these factors ultimately produce a 'rational decision' that providing a false confession is the only manner in which to alleviate the pressures of the interrogation room.

III. Psychological Vulnerabilities of the Suspect

Finally, research has suggested that some individuals may be more vulnerable than others in the interrogation room, and particularly with regard to providing a false confession. Specifically, there appear to be certain characteristics that render an individual more susceptible

to interrogation, including the age, mental capacity, suggestibility, and physical or psychological state of the suspect at the time of the interrogation. First, a number of field studies (e.g., Baldwin & McConville, 1980; Leiken, 1970; Phillips & Brown, 1998; Softley, 1980; for a review, see Drizin & Colgan, 2004) and several empirical studies (Billings, Taylor, Burns, Corey, Garven, & Wood, 2007; Redlich & Goodman, 2003; see Redlich, Silverman, Chen, & Steiner, 2004) have demonstrated that younger suspects, and in particular children, are more likely to falsely incriminate themselves and/or confess during an interrogation than older persons or adults. Indeed, 32% of the false confessions discussed by Drizin and Leo (2004) involved juveniles under the age of 18.

Second, studies have suggested that police routinely interrogate persons of low intelligence or IQ (see Gudjonsson, 1993), and that such individuals may be more suggestible and less able to cope with the pressures of the interrogation room (Gudjonsson, 1990, 2003). For example, Drizin and Leo (2004) found that 19% of their sample of false confessors could be classified as "mentally retarded." It appears that both decision-making abilities and heightened suggestibility in this population may result in the increased risk of falsely confessing.

Third, interrogative suggestibility (or the unique characteristic of a given individual to demonstrate increased suggestibility in a forensic interview setting) has been associated with false confessions (Gudjonsson, 2003; Gudjonsson & Clark, 1986). The Gudjonsson Suggestibility Scale (GSS; Gudjonsson, 1984) has been developed and utilized to assess suggestibility in a number of studies, with suggestibility often being associated with poor memory, low self-esteem, high levels of anxiety, and a greater likelihood of confession (see Gudjonsson, 1991, 2003). Compliance (or the degree to which a given individual may yield to social requests), as measured by the Gudjonsson Compliance Scale (GCS; Gudjonsson, 1989a, 1991), has also been shown to be associated with a greater likelihood of confession.

Finally, the psychological state (e.g., due drug use or mental illness) of a suspect at the time of interrogation may also be linked to the likelihood of false confession (Pearse, Gudjonsson, Clare, & Rutter, 1998; Redlich, 2004). For example, studies have indicated that suspects undergoing alcohol withdrawal at the time of interrogation are more likely to provide a false confession (Gudjonsson, Hannesdottir, et al., 2004). Furthermore, individuals suffering from mental illness, including depression and anxiety disorders, may be increasingly susceptible to interrogative pressures (see Gudjonsson, 2003). For example, 10% of the Drizin and Leo (2004) sample of false confessors were described as "mentally ill".

In summary, it is important to consider the variety of unique characteristics that may cause a particular suspect to be vulnerable to the power of the interrogation room. While some of these factors may be readily apparent to the investigator (e.g., the age of the suspect), others may be more difficult to discern (e.g., the degree of interrogative suggestibility, or the presence of mental illness). Nevertheless, the investigator must be ever mindful of the individual and his/her susceptibility to the power of the interrogation room.

A NEW MODEL OF INTERROGATION

Identifying interrogation strategies that minimize the likelihood of obtaining false confessions without compromising the ability of interrogators to elicit true confessions is a challenge faced by law enforcement and researchers alike. In assessing what progress law enforcement has made in this area, it may be informative to examine the interrogation practices of Great Britain. Although interviewing practices in the U.S. and Great Britain were on par with

one another through the 1980s, these two countries now differ greatly in their approaches (Bull & Milne, 2004).

In Great Britain, public response to recurrent miscarriages of justice involving proven false confessions became a catalyst for change (see Gudjonsson, 2003). In 1981, the Royal Commission on Criminal Procedure (RCCP) was established to assess pretrial criminal procedures and to generate suggestions for reform in England and Wales. To achieve its goal the RCCP commissioned several researchers to carry out programs of research exploring events in the interrogation room (Gudjonsson, 2003). After concluding that police frequently relied on interrogation techniques that were both physically and psychologically manipulative (which resemble methods currently employed the U.S.) and that the police had no existing protocol or training on interrogations (Irving, 1980; Irving & Hilgendorf, 1980), the Police and Criminal Evidence Act (PACE) of 1984 was created. The primary goal of PACE was to reduce the use of psychologically manipulative tactics, and to require that all interrogations be audio recorded (Bull & Milne, 2004). The move to PACE appears to have been successful. A post-PACE study conducted by Irving and McKenzie (1989) found that the use of psychologically manipulative tactics had significantly declined and, more importantly, that the frequency of confessions did not decrease.

In 1993, the Royal Commission on Criminal Justice further reformed British interrogation methods by proposing the PEACE model. Each letter of the acronym "PEACE" represents a phase of interrogation that investigators should adhere to. In the "preparation and planning" phase, interrogators focus on organizing evidence and constructing a plan for the interview. During the "engage and explain" phase, the goal is to build rapport and to make the suspect aware of the purpose of the interview. The third phase, "account," is the core of the interview. Contrary to the U.S. style of interrogation, interrogations maintain the goal of 'fact finding' rather than that of obtaining a confession, and investigators are not permitted to deceive suspects. After initiating the interview, suspects are encouraged to provide a complete account of their involvement or relation to the crime, and they are encouraged to speak freely, while close-ended questions are kept to a minimum (Bull & Milne, 2004; Mortimer & Shepherd, 1999). Once the suspect has completed his or her narrative, the investigator provides the opportunity to correct any discrepancies (the "closure" phase). Finally, the investigator compares the suspect's statements to evidence, tries to clear up any inconsistencies, and draws conclusions based on evidence and facts that had been gathered during the "evaluate" phase.

Thus far, evaluations of PEACE have been limited to observational research like that of Clarke and Milne (2001). They observed that the PEACE model appeared to succeed in yielding confession evidence in real cases, but officers seemed to forget their training rather quickly and that only 10% of the cases they reviewed were likely in violation of the PACE act. Clarke and Milne concluded that when compared with pre-PEACE interviews, the post-PEACE interviews were more ethical and preferable overall. And, once again, despite moving to a non-coercive approach investigators using PEACE are able to secure confessions. Police in New Zealand have now also adopted the PEACE protocol following the successes of Great Britain (*New Zealand Herald*, 12/13/06).

RECOMMENDATIONS FOR BEST PRACTICE

The present chapter has attempted to review current research on the false confessions phenomenon in an attempt to delineate factors that likely increase the risks to innocent suspects.

While empirical research on interrogations and confessions continues to evolve, we believe that several 'best practice' recommendations can be offered to police investigators.

I. Transparency of the Interrogation Process

First and foremost, the interrogation should be made "transparent" through the use of videotaping. Law enforcement often fear that the videotaping of an interrogation will to some degree limit their discretion or effectively reduce the likelihood of achieving a confession from the suspect. In fact, research has demonstrated that the recording of interrogations does not significantly lower the frequency of confessions produced (Geller, 1992; Grant, 1987; Willis, Macleod, & Naish, 1988), and investigators have found that videotaping can enhance the perceived strength and voluntariness of the evidence, while protecting the investigator against unfounded allegations of wrongdoing (Sullivan, in press). In a recent survey of U.S. law enforcement, 81% of investigators advocated the recording of custodial interrogations (Kassin et al., 2007). Those seeking to institute such a policy should consider two key issues. First, recording should include all interactions between a suspect and an investigator. Second, the angle of recording should adhere to recommendations based upon research by Lassiter and his colleagues (see Lassiter & Geers, 2004).

II. Be Wary of Suspect Vulnerabilities

Investigators should evaluate suspects for characteristics that are likely to place them at risk in the interrogation room. As discussed above, the age, mental ability, and psychological state of the suspects are important factors to consider prior to initiating any interrogative scenario. Juveniles, and especially young children, should be interviewed in the presence of counsel or parental supervision. Individuals of questionable mental status should be evaluated prior to interrogation. And the interview of suspects under the influence of alcohol or drugs, or those undergoing withdrawal symptoms, should be withheld until treatment has been provided and a state of normal cognitive functioning has returned.

III. Assess the Reliability of the Confession Statement

Leo and Ofshe (1998) have recommended that investigators evaluate the suspect's post-admission narrative to determine the extent to which the details provided in the statement are consistent with known facts in the case. Given that the goal of an interrogation is to yield evidence of the crime directly from the suspect, it is important (a) that investigators withhold details of the case from the media or third parties that might otherwise contaminate a suspect's knowledge of case-related information, and (b) that investigators not provide a suspect with details of the case during the course of an interrogation (including evidentiary materials, crime scene photographs, or visits to the crime scene) such that a true assessment of the suspect's knowledge might be gleaned from the confession statement. In addition, investigators should assess whether any novel evidence was obtained during the course of the interrogation that might independently corroborate the confession statement.

CONCLUSION

False confessions occur in our criminal justice system with some regularity and are responsible for the wrongful conviction of innocent individuals around the world. While this phenomenon is a troublesome reality, researchers have begun to delineate factors that may be

responsible for its occurrence, including the role of investigative biases stemming from pre-interrogation interviews, the psychological pressures placed upon an innocent suspect using modern-day interrogation methods, and the individual characteristics that make certain suspects more vulnerable to the power of the interrogation room. Given the maturity of our scientific understanding, we are also now in a position to recommend certain 'best practice' approaches that will assist investigators in achieving true confessions while simultaneously protecting the innocent. We believe that further research into alternative methods of interrogation that might yield more diagnostic confession evidence (i.e., a greater likelihood of true vs. false confessions) is warranted, particularly with regard to the non-coercive approaches advocated in Great Britain. Ultimately, it will be important for researchers and practitioners to work together on this critical issue.

REFERENCES

Baldwin, J. (1993). Police interviewing techniques: Establishing truth or proof? *The British Journal of Criminology, 33,* 325–352.

Bedau, H.A. & Radelet, M.L. (1987). Miscarriages of justice in potentially capital cases. *Stanford Law Review, 40*, 21-179.

Bem, D.J. (1966). Inducing belief in false confessions. *Journal of Personality & Social Psychology*, *3*, 707-710.

Billings, F.J., Taylor, T., Burns, J., Corety, D.L., Garven, S., & Wood, J.M. (2007). Can reinforcement induce children to falsely incriminate themselves? *Law & Human Behavior, 31*, 125-139.

Blagrove, M. (1996). Effects of length of sleep deprivation on interrogative suggestibility. *Journal of Experimental Psychology, 2*, 48-59.

Bond, C.F. Jr., & DePaulo, B.M. (2006). Accuracy of deception judgments. *Personality & Social Psychology Review, 10,* 214-234.

Bull, R., & Milne, R. (2004). Attempts to improve the police interviewing of suspects. In G. D. Lassiter (Ed.), *Interrogations, confessions, and entrapment* (pp. 182–196). New York: Kluwer Academic Publishers.

Causes and remedies. (2007). *The Innocence Project*. Retrieved November 9, 2007 from: http://www.innocenceproject.org/causes/index.php.

Clarke, C. & Milne, R. (2001). *National evaluation of the PEACE investigative interviewing course.* Police Research Award Scheme. London: Home Office.

Drizin, S.A. & Colgan, B.A. (2004). Tales from the juvenile confession front: A guide to how standard police interrogation tactics can produce coerced and false confessions from juvenile suspects. In G.D. Lassiter (Ed.), *Interrogations, confessions, and entrapment* (pp. 127-162). New York: Kluwer Press.

Drizin, S.A., & Leo, R.A. (2004). The problem of false confessions in the post-DNA world. *North Carolina Law Review, 82,* 891–1007.

Forrest, K.D., Wadkins, T.A., & Larson, B.A. (2006). Suspect personality, police interrogations, and false confessions: Maybe it is not just the situation. *Personality & Individual Differences, 40,* 621-628.

Forrest, K.D., Wadkins, T.A., & Miller, R.L. (2002). The role of pre-existing stress on false confessions: An empirical study. *Journal of Credibility Assessment & Witness Psychology*, *3*, 23-45.

Geller, W.A. (1992). *Police videotaping of suspect interrogations and confessions*. Wilmette, IL: Police Executive Forum.

Grant, A. (1987). Videotaping police questioning: a Canadian experiment. *Criminal Law Review,* 375-383.

Gross, S. R., Jacoby, K., Matheson, D. J., Montgomery, N., & Patil, S. (2005). Exonerations in the United States, 1989 through 2003. *Journal of Criminal Law & Criminology*, *95*.

Gudjonsson, G.H. (1984). A new scale of interrogative suggestibility. *Personality & Individual Differences, 5*, 303-314.

Gudjonsson, G.H. (1989). Compliance in an interrogative situation. *Personality & Individual Differences, 10*, 535-540.

Gudjonsson, G.H. (1990). One hundred alleged false confession cases: Some normative data. *Journal of Clinical Psychology, 29*, 249-250.

Gudjonsson, G.H. (1993). Confession evidence, psychological vulnerability and expert testimony. *Journal of Community & Applied Social Psychology, 3*, 117-129.

Gudjonsson, G. H. (2003). *The psychology of interrogations and confessions: A handbook.* West Sussex, England: John Wiley & Sons, Ltd.

Gudjonsson, G. H. (in press). The psychology of false confessions: A review of the current evidence. In G. D. Lassiter & C. Meissner's (Eds.) *Interrogations and confessions: Research, practice, and policy*. Washington, DC: APA.

Gudjonsson, G.H. & Clark, N.K. (1986). Suggestibility in police interrogation: A social psychological model. *Social Behaviour, 1*, 83-104.

Gudjonsson, G.H., Hannesdottir, K., Agustsson, T., Sigurdsson, J.F., Gudmundsdottir, A., Pordarttir, P., Tyrfingsson, P., & Petursson, H. (2004). Personality predictors of the failure of alcoholics to come for follow-up assessment. *Personality & Individual Differences, 37*(4), 805-813.

Henkel, L.A. & Coffman, K.J. (2004). Memory distortion in coerced false confessions: A source Monitoring framework analysis. *Applied Cognitive Psychology, 18*(5), 567-588.

Hilgendorf. E.L. & Irving, B. (1981). A decision-making model of confessions. In M.a. Lloyd-Bostock (Ed.) *Psychology in legal contexts: Applications and limitations*. London: MacMillan, 67-84.

Inbau, F.E., Reid, J.E., Buckley, J.P., & Jayne, B.C. (2001). *Criminal interrogation and confessions* (4th ed.). Gaithersberg, MD: Aspen.

Irving, B. (1980). Police interrogation: A case study of current practice (Royal Commission on Criminal Procedure Research Study No. 2). London: Her Majesty's Stationery Office.

Irving, B. & Hilgendorf, L. (1980). *Police interrogation. A case study of current practice. Research Studies No. 2.* London: HMSO.

Irving, B., & McKenzie, I.K. (1989). *Police interrogation: The effects of the Police and Criminal Evidence Act*. London: Police Foundation of Great Britain.

Kassin, S.M. (1997). The psychology of confession evidence. *American Psychologist, 52,* 221-233.

Kassin, S.M. (2005). On the psychology of confessions: Does innocence put innocents at risk? *American Psychologist*, *60*, 215-228.

Kassin, S.M., Goldstein, C.J., & Savitsky, K. (2003). Behavioral confirmation in the interrogation room: On the dangers of presuming guilt. *Law & Human Behavior, 27,* 187-203.

Kassin, S.M., & Gudjonsson, G.H. (2005). The psychology of confessions: A review of the literature and issues. *Psychological Science in the Public Interest, 5,* 33-67.

Kassin, S.M., & Kiechel, K.L. (1996). The social psychology of false confessions: Compliance, internalization, and confabulation. *Psychological Science, 7,* 125-128.

Kassin, S. M., Leo, R. A., Meissner, C. A., Richman, K. D., Colwell, L. H., Leach, A-M., & LaFon, D. (2007). Police interviewing and interrogation: A self-report survey of police practices and beliefs. *Law & Human Behavior*.

Kassin, S.M., Meissner, C.A. & Norwick, R.J. (2005). "I'd know a false confession if I saw one": A comparative study of college students and police investigators. *Law & Human Behavior, 29,* 211-228.

Kassin, S.M. & Wrightsman, L.S. (1985). Confession evidence. In S.M. Kassin and L.S. Wrightsman (Eds), *The psychology of evidence and trial procedures.* London: Sage, 67-94.

Klaver, J., Rose, V.G., & Lee, Z. (2003, July). *Effect of different interrogation techniques and the role of plausibility in a false confession paradigm.* Paper presented at the 2003 International Psychology & Law Conference, Edinburgh, Scotland.

Lassiter, G.D., & Geers, A.L. (2004). Evaluation of confession evidence: Effects of presentation format. In G.D. Lassiter (Ed.), *Interrogations, confessions, and entrapment* (pp. 197–214). New York: Kluwer Press.

Lassiter, G. D., & Meissner, C. A. (in press). *Interrogations and confessions: Research, practice, and policy reforms*. Washington, DC: American Psychological Association.

Leiken, L.S. (1970). Police interrogation in Colorado: the implementation of Miranda. *Denver Law Journal, 47*, 1-53

Leo, R.A. (1996). Inside the interrogation room. *The Journal of Criminal Law & Criminology, 86,* 266-303.

Leo, R.A. (2004). The third degree and the origins of psychological interrogation in the United States. In D. Lassiter's (Ed.), *Interrogations, confessions, and entrapment*. Kluwer Academic / Plenum Press.

Leo, R. A., & Ofshe, R. (1998). The consequences of false confessions: Deprivations of liberty and miscarriages of justice in the age of psychological interrogation. *Journal of Criminal Law & Criminology*, *88*, 429-496.

Meissner, C.A. & Kassin, S.M. (2002). "He's guilty!": Investigator bias in judgments of truth and deception. *Law & Human Behavior*, *26*, 469-480.

Meissner, C. A. & Kassin, S. M. (2004). "You're guilty, so just confess!" Cognitive and behavioral confirmation biases in the interrogation room. In D. Lassiter's (Ed.), *Interrogations, confessions, and entrapment*. Kluwer Academic / Plenum Press.

Meissner, C. A., Russano, M. B., & Narchet, F. M. (in press). The importance of a laboratory science for understanding the psychological processes underlying interrogations and confessions. In G. D. Lassiter & C. Meissner's (Eds.) *Interrogations and confessions: Research, practice, and policy*. Washington, DC: APA.

Miranda v. Arizona, 384 U. S. 436 (1966).

Mortimer, A., & Shepherd, E. (1999). Frames of mind: Schemata guiding cognition and conduct in the interviewing of suspected offenders. In A. Memon & R. Bull (Eds.), *Handbook of the psychology of interviewing* (pp. 293–315). Chichester, England: Wiley.

Moston, S., Stephenson, G.M., & Williamson, T.M. (1992). The incidence, antecedents and consequences of the use of the right to silence during police questioning. *Criminal Behavior & Mental Health, 3,* 30-47.

Narchet, F. M., Meissner, C. A., & Russano, M. B. (2008). *Modeling the effects of investigator bias on the elicitation of true and false confessions*. Manuscript under review.

Ofshe, R. & Leo, R.A. (1997). The decision to confess falsely: rational choice and irrational action. *Denver University Law Review, 74*, 979-1122.

Olio, K.A. & Cornell, W.F. (1998). The façade of scientific documentation: A case study of Richard Ofshe's analysis of the Paul Ingram case. *Psychology, Public Policy, & Law, 4*, 1182-1197.

Pearse, J., Gudjonsson, G.H., Clare, I.C.H. & Rutter, S. (1998). Police interviewing and psychological vulnerabilities: Predicting the likelihood of a confession. *Journal of Community & Applied Social Psychology, 8*(1), 1-21.

Phillips , C. & Brown, D. (1998). *Entry into the criminal justice system: a survey of police arrests and their outcomes.* London: Home Office.

Redlich, A.D. & Appelbaum, P.S. (2004). Mental illness, police interrogations, and the potential for false confession. *Psychiatric Services, 55*, 19-21.

Redlich, A.D., & Goodman, G.S. (2003). Taking responsibility for an act not committed: The influence of age and suggestibility. *Law & Human Behavior, 27,* 141-156.

Redlich, A. D., & Meissner, C. A. (in press). Techniques and controversies in the interrogation of suspects: The artful practice versus the scientific study. To appear in J. Skeem et al. (Eds.), *Psychological science in the courtroom: Controversies and consensus*. Guilford Press.

Redlich, A. D., Silverman, M., Chen, J. & Steiner, H. (2004). The police interrogation of children and adolescents. In G.D. Lassiter (Ed.), *Interrogations, confessions, and entrapment* (pp. 107-125). New York: Kluwer Press.

Russano, M.B., Meissner, C.M., Narchet, F.M., & Kassin, S.K. (2005). Investigating true and false confessions within a novel experimental paradigm. *Psychological Science, 16,* 481-486.

Scheck, B., Neufeld, P. & Dwyer, J. (2000). *Actual innocence.* Garden city, NY: Doubleday.

Sigurdsson, J.F., & Gudjonsson, G.H. (1996). Psychological characteristics of ''false confessors'': A study among Icelandic prison inmates and juvenile offenders. *Personality & Individual Differences, 20,* 321–329.

Softley, P. (1980). *Police interrogation: An observational study in four police stations.* London, England: HMSO.

Sullivan, T. P. (in press). The wisdom of custodial recording. In G. D. Lassiter & C. Meissner's (Eds.) *Interrogations and confessions: Research, practice, and policy*. Washington, DC: APA.

Viljoen, J.L., Klaver, J. & Roesch, R. (2005). Legal decisions of preadolescent and adolescent defendants: Predictors of confessions, pleas, communication with attorneys, and appeals. *Law & Human Behavior, 29*, 253-277.

Vrij, A. (2008). *Detecting lies and deceit: Pitfalls and opportunities*. West Sussex, England: John Wiley & Sons Ltd.

White, W. (2003). *Miranda's waning protections: Police interrogation practices after Dickerson.* Ann Arbor, MI: University of Michigan Press.

Willis, C.F., Macleod, J. & Naish, P. (1988). *The tape recording of police interview with suspects: a second interim report.* Home Office Research Study No. 97. London: HMSO.

Wright, L. (1993a). Remembering Satan, Part I. *The New Yorker*, *69(13)*, 60-81.

Wright, L. (1993b). Remembering Satan, Part II. *The New Yorker*, *69(14)*, 54-76.

Zimbardo, P.G. (1967). The psychology of police confessions. *Psychology Today, 1*, 17-20, 25-27.