

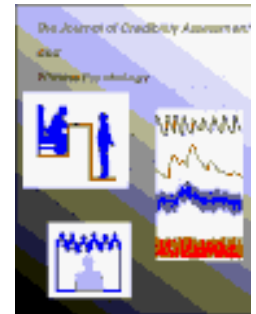
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### **The Psychology of False Confessions**

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***ABSTRACT: Obtaining a confession is one of the most important aims of police interrogation, and it is estimated that more than 80% of solved criminal cases are solved by a confession. However, a significant number of confessions that result in wrongful convictions are obtained through coercive questioning. This paper examines false confessions and discusses the psychological and social factors that influence innocent suspects to give self-incriminating false statements during police interrogation. Inherently coercive police questioning techniques that are employed to obtain confessions from suspects in-custody are presented.***

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### **The Psychology of False Confessions**

#### **Introduction**

Frequently regarded as the most unequivocal evidence of guilt, a confession relieves doubts in the minds of judges and jurors more than any other evidence (Driver, 1968; Kassin & Wrightsman, 1985; Reik, 1959; Schafer, 1968; Wrightsman, Nietzel, & Fortune, 1994). In criminal law, the confession evidence is considered to be the most damaging form of evidence produced at a trial (Underwager & Wakefield, 1992; Wrightsman & Kassin, 1993; Zimbardo, 1967) and a prosecutor's most potent weapon (Kassin & Sukel, 1997) -- so potent that, in the words of one legal scholar, "the introduction of a confession makes the other aspects of a trial in court superfluous, and the real trial, for all practical purposes, occurs when the confession is obtained" (McCormick, 1972, p. 316). Confession evidence alone generally ensures a

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conviction (Driver, 1968; Kassin & Wrightsman, 1985; Schafer, 1968; Wrightsman et al., 1994). To obtain a confession is one of the most important aims of police interrogation (Underwager & Wakefield, 1992). Zimbardo (1967) estimated that of those criminal cases that are solved, more than 80% are solved by a confession. Dr. W. Sargant (cited in Brandon & Davies, 1973), speaking at the 5th Scientific Congress of the British Academy of Forensic Sciences, estimated that without confessions, convictions might be reduced by more than 70%. J. Barry of the Australian Supreme Court, addressing the United Nations, stated that "confession is the most attractive way of solving crimes" (cited in Brandon & Davies, 1973).

Confessions are a very powerful form of evidence. This may be due to observers misattributing the cause of the confession as being internal to the person (e.g., actual guilt) while discounting situational factors (e.g., possible coercion) which may not be readily apparent to an observer (Gilbert & Malone, 1995). In social psychology, this is known as the fundamental attribution error: the tendency to attribute other people's behavior to more dispositional (internal) causes, and underestimate the importance of situational (external) factors (Ross, 1977). As Wrightsman (1991) points out, "It seems that what you say is more influential than why you say it" (p. 170). Understanding the fundamental attribution error may help explain how people, especially jurors, can be influenced by confession evidence even if the confession is considered unreliable. Once a suspect makes a confession, even if the confession is ruled inadmissible by the court, people often hold on to newly formed beliefs even after they have been discredited (Anderson, Lepper, & Ross, 1980) or instructed to ignore them by a judge (Kassin & Sukel, 1997; Kassin, Williams, & Saunders, 1990).

Are all confessions authentic? Do all suspected individuals give true confessions out of their own volition, devoid of duress during police interrogation? Bedau and Radelet (1987) revealed that the primary cause for the conviction of 49 (11.4%) of the 350 instances of miscarriages of justice in the U. S. this century was a false confession generated by coercive questioning. Bedau and Radelet operationally define a miscarriage of justice as "those cases which: (a) The defendant was convicted of homicide or sentenced to death for rape; and (b) when either (i) no such crime actually occurred, or (ii) the defendant was legally and physically uninvolved in the crime." (p. 45). In 309 (88%) of the cases innocence was established by state decisions indicating error (e.g., reversal by trial or appellate court).

How often do false confessions lead to miscarriages of justice? Wrightsman and Kassin (1993) report that no one knows but cited Lloyd-Bostock's report (1989) that in Great Britain, false confessions ranked second only to mistaken identifications as a cause of wrongful conviction among cases referred to the Court of Appeal. How often false confessions result in wrongful convictions is obscure (Gudjonsson & MacKeith, 1988; Kassin & Fong, 1999, Leo, 1998) although some observers (Gudjonsson, 1992; Kassin & Wrightsman, 1985; Leo, 1998; Leo & Ofshe, 1998; White, 1998; Wrightsman

& Kassin, 1993; Wrightsman et al., 1994; Zimbardo, 1967) affirm that enough cases have been documented to suggest that a concern over such a risk is justified. Leo (1998) points out three reasons why it is impossible to even estimate the incidence or prevalence of false confessions: (1) police interrogations are conducted in secrecy and they are usually not recorded, (2) law enforcement agencies do not keep records on the number of interrogations conducted, and (3) it is difficult to establish what actually occurred to elicit a confession, especially if the confession resulted in a conviction.

As Leo (1998) points out, it is very difficult to establish a baseline on the incidence or prevalence of false confessions in the United States. Huff, Rattner, and Sagarin (1986) gave a conservative estimate of 6,000 wrongful convictions in the United States for index crimes<sup>2</sup> alone. The authors distributed surveys asking respondents who were directly involved in the criminal justice system (e.g., judges) to give estimates on the frequency of wrongful convictions. Using 1981 data for index crimes, Huff et al. used a 50% conviction rate and a wrongful conviction rate of only one-half of 1% (which was lower than most respondents estimated) to arrive at their estimate. The authors concluded that even if a system is 99.5 % accurate, a high-volume area could produce 6,000 erroneous convictions per year. Keeping in mind the data from the Bedau and Radelet (1987) study which showed that 11.4% of the convictions in their sample were the result of a false confession, one could make a conservative estimate of 5% and still show that 300 false confessions result each year in a high-volume area.

The primary purpose of this paper is to examine the reasons why innocent people sometimes confess. To be more specific, what factors compel innocent suspects to give false statements and confess to crimes they did not commit during police questioning? Secondly, how do interrogators get suspects to confess; what psychological and social influence do they employ? Although there are a limited number of research studies regarding false confessions, the present review of the literature indicates a shift in court rulings throughout United States history with regard to the attainment of confessions and the admissibility and validity of confession evidence. Different perspectives on false confessions will be analyzed. Three psychologically distinct types of false confessions--voluntary, coerced-compliant, and coerced-internalized (Kassin, 1997, 1998; Kassin & Sukel, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993)--with the two latter types being significant with regard to police interrogation will be explored. In addition, some related case histories including landmark decisions such as *Miranda v. Arizona* (1966) and *Brown v. Mississippi* (1936) are reviewed. Emphasis is placed on the psychological perspectives of coerced-internalized false confessions and other factors that influence false confessions. Demand characteristics of the police interrogation process are also be discussed, and several types of psychological and social factors employed by po

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<sup>2</sup> According to the Federal Bureau of Investigation (1997) the following are considered to be index crimes: Homicide, rape, robbery, assault, burglary, larceny, motor vehicle theft, and arson.

lice interrogators in order to secure confessions from suspects are presented.

### **A Historical Overview of False Confessions**

Four centuries ago, a confession was treated as a conviction. The use of physical torture to extract confessions was common, and all confessions were routinely admitted into evidence without question. But slowly over the centuries, the status of confessions in the legal system shifted from the courts' limiting the admissibility into evidence of ordinary confessions in the mid-1700s, to totally excluding coerced confessions by the mid to late 1800s. By the 19th century, the courts were cynical of all confessions and tended to dismiss them if questionable.

In the early 1900s, U. S. courts were increasingly faced with cases of Black defendants who were said to have "confessed" to crimes after being physically beaten by the police (Kassin, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993; Wrightsman et al., 1994). The case of *Brown v. Mississippi* (1936) was a landmark decision on this matter. In that case, three Black men were apprehended by the police for murder. The men were not allowed to consult with an attorney and were subsequently threatened, beaten, and tortured. Each of the three men eventually signed a police written "confession" to the murder. Each defendant was convicted and then sentenced to death. The Supreme Court of the United States reversed the convictions in *Brown* on the grounds that the police had violated the defendants' rights to due process of law. The Court ruled that evidence procured through physical torture and brutality must be excluded from trials. Furthermore, the Court asserted that a trial "is a mere pretense where the state authorities have continued a conviction resting solely upon confessions obtained by violence" (p. 287). Thus, the admissibility of confession evidence is prefaced by the requirement that the confession be proved voluntary (Kassin, 1997; Kassin & Wrightsman, 1985). That is, the confession must be given freely and knowingly (Gudjonsson, 1992; White, 1998), without physical or psychological coercion (McCormick, 1972, 1992), and in an unconstrained manner by the individual (*Culombe v. Connecticut*, 1961). The ruling in *Brown* set a precedent "that a state court conviction resting upon a confession extorted by brutality and violence violated the accused's general right to due process guaranteed by the Fourteenth Amendment" (McCormick, 1992, p. 232).

In determining the admissibility of confession evidence, the courts have considered other factors such as mental abuse in addition to physical force and threats. In the case of *Chambers v. Florida* (1940), the Supreme Court ruled that five days of prolonged questioning and other factors that fell just short of physical violence elicited concerns that the confessions given by the defendants were in danger of being false. An investigation into the totality of the circumstances surrounding the confessions was required as in the case of *Haynes v. Washington*, (1963). The defendant was refused telephone contact with his family and attorney and was told by police that these

requests might be granted as soon as he made a statement. The Supreme Court of the United States ruled that the defendant's confessions were coerced by the fact that the defendant's "will" was overborne in an "atmosphere of substantial coercion and inducement created by statements and acts of state authorities" (p. 513). In the landmark case *Miranda v. Arizona* (1966), the Supreme Court ruled that unless the accused is advised by the police of his constitutional rights to remain silent and to obtain counsel, all self-incriminating statements are inadmissible in court.

To measure the accuracy of confession evidence, one would have to assess the combined frequency with which truly guilty people confess and truly innocent people do not. Thus, two types of false errors are possible: false negatives, in which guilty suspects fail to confess, and false positives, in which suspects who are innocent confess (Kassin, 1997; Kassin & Wrightsman, 1985). According to Kassin (1997), the false positive error, although less common than the false negative, poses a more serious dilemma for the courts. Kassin (1997) stressed the importance of knowing what factors increase the risk of a false confession.

As noted earlier, a 1987 study by Bedau and Radelet discovered 350 instances of miscarriages of justice in the United States alone. In each of these cases an innocent individual was convicted of murder or rape. In 49 of these cases, the foremost reason for the conviction was a false confession brought about by coercive interrogation. For several years, a coerced confession that led to a conviction resulted in an automatic reversal of the conviction; however, this was changed in the case of *Arizona v. Fulminante* (1991). In this case, the Supreme Court of the United States ruled that a conviction based on a coerced confession was not to be automatically reversed. If the prosecution could prove beyond a reasonable doubt that the trial court error was harmless, the "harmless error" rule would apply. That is, other sufficient evidence must exist to sustain the conviction.

### **A Psychoanalytical Perspective on False Confessions**

Theodor Reik (1959), renowned psychoanalyst and criminologist, states a belief that false statements originate from the unconscious compulsive need to confess. If instinctual impulses striving for expression are spurned or condemned by the external world, the still feeble ego can manage only to express them in the form of confession. Hence, the inclination to confess is a modified urge for the expression of the drives. Reik asserted that the unconscious compulsion to confess gratifies the need for punishment. That is, the need for punishment shifts from punishment to confession. He expounds further in his book, translated in 1959, *The Compulsion to Confess*:

Compare the situation with that of a little boy who seems to fear punishment for some secret misdeed. . . . least of all does he fear the punishment itself. Rather, he shows feeling of anxiety because of what his parents may be thinking as they learn of his little misdeed and because he must

confess it to them. He has transformed the fear of punishment into the fear of confession. The confession itself, as that which precedes the punishment, has now become in the highest degree terrifying. The child himself says in many cases that it is not punishment he fears, but the scene in which he will tell his parents what he did. (pp. 202-203)

Here, the need for punishment, like any other strong drive, emits severe stress and pressure. The intensity of these impulses can be lessened only by partial gratification (Reik, 1959; Schafer, 1968).

### **Procedural Considerations**

Opponents of questionable and inappropriate police interrogation and investigative procedures argue that a false confession is nothing more than the product of police incompetence (Ofshe, 1991; Zimbardo, 1967) and police viciousness. According to this view, in attempting to elicit confessions from suspects, police interrogators may use outright lies and subtler forms of deception (Underwager & Wakefield, 1992; Wood, 1995). The most widely used and influential textbook on police interrogations (Gudjonsson, 1992, 1994; Huff, Rattner, & Sagarin, 1996), Inbau, Reid, and Buckley's (1986) *Criminal Interrogations and Confessions* encourages and describes a step-by-step process by which interrogators are to elicit a confession from a suspect by using outright deceit and psychological manipulation. Inbau et al. recommend telling suspects that they have evidence linking them to the crime where none exists and to minimize the seriousness of the offense "by saying anyone else under similar conditions or circumstances might have done the same thing" (p. 97). In reviewing the recommendations made by Inbau, et al., Gudjonsson (1994) states "this means that police officers are encouraged to make a false confession themselves in order to obtain a confession from suspects" (p. 239).

Another area problematic during interrogations is the reliance on methods for detecting deception (e.g., nonverbal behavior) that are offered in police training manuals. A suspect in police custody may be perceived by the interrogating officer as being deceptive when in fact this may not be true. Inbau et al. (1986) recommend using the aforementioned techniques on suspects who appear to be guilty based on the methods for detecting deception as described in their manual. However, research has shown that people--even those with special training--are poor at detecting deception (Ekman, 1992; Kassin & Fong, 1999; Shuy, 1998).

Negligence and overzealousness on the part of prosecutors (Bedau & Putnam, 1996; Frisman, 1995; Zimbardo, 1967) may also lead to false confessions. Gardner (1995) recounts a case in which he was involved where the prosecution decided that a young woman was sexually abusing boys on the basis of a rumor and an anonymous tip. The alleged victims in the case were taken into police custody and told they would not be released until they "confessed" about the sexual abuses by this woman. Yant (1991) points out

two major reasons why prosecutors abuse their power. First, American courts are structured as an adversarial system. The search for the truth is lost, and the focus becomes winning the case at any cost. In this effort, the prosecutor may “frequently cross the line into withholding or fabricating evidence, allowing perjured testimony, and making exaggerated attacks on the defendant” (p. 139). Second, in order to be re-elected or for other professional advancement reasons, many prosecutors feel they must maintain a high rate of convictions. In addition, prosecutors may encounter pressure for a political necessity to close a case (Greenspan, 1996; Ofshe, 1991). This would most likely occur in high profile cases where there is a public outcry for justice.

### **False Confessions: High Profile Cases**

More than 60 years ago, over 200 people confessed to the kidnapping and murder of Charles Lindbergh’s baby (Macdonald & Michaud, 1987; Rogge, 1959). Then in the late 1940s, more than 30 people falsely confessed to the murder and mutilation of Elizabeth Short, an aspiring Hollywood actress whose severed remains were found in a vacant Los Angeles lot. The Short case received nationwide attention and became known as the “Black Dahlia” murder, due to descriptions of Ms. Short having always dressed in black. The Short case is still unresolved (Macdonald & Michaud, 1987; Nash, 1983; Rogge, 1959). Still another instance of a false confession is the story of SS leader Heinrich Himmler, who lost his pipe while visiting a concentration camp. A search followed, but upon returning to his car the pipe was discovered on his seat. The camp commandant protested that six prisoners have already confessed to stealing it (Macdonald & Michaud, 1987).

The above high profile cases are included to illustrate two general points to the reader. First, false confessions can and do occur, and they are not a new phenomenon. In fact, Munsterberg (1908) was the first psychologist to write on the subject nearly a century ago. In his classic book, *On the Witness Stand*, Munsterberg devotes an entire chapter to untrue confessions. Many of Munsterberg’s observations on false confessions (e.g., “in some instances the confessing persons really believed themselves guilty” [p.146]; “pseudo-confessions may thus arise in men who are distinctly not ill” [p. 150]) are strikingly similar to what modern research has revealed on the subject. Second, false confessions occur in widely publicized types of cases in alarming numbers without any type of influence or pressure from the criminal justice system. When one takes this fact into account and further considers the influence of situational features (e.g., interpersonal pressure) during an interrogation, a better understanding of false confessions is fostered.

### **Types of False Confessions**

What other reasons could explain why false confessions occur? Why do suspects who are innocent confess to crimes they did not commit? What is it about police interrogation that sometimes compels innocent people to in

criminate themselves? A perusal of the anecdotal literature (Reik, 1959; Schafer, 1968; Zimbardo, 1967) has led Kassin and Wrightsman (1985) to distinguish among three psychologically distinct types of false confessions.

### **Voluntary False Confessions**

A voluntary false confession is a self-incriminating statement that is purposefully offered in the absence of pressure by the police (Bedau & Putnam, 1996; Ofshe, 1992; Note, 1953; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993). Canadian forensic law experts Rogers and Mitchell (1991) further noted that the accused who is giving a voluntary statement must have an operating mind--a mind that appreciates what is occurring and that appreciates the consequences of his or her action. Thus, the authors conclude, failing to understand or appreciate the consequences of expressing a statement only renders the statement inadmissible in court if the person does not possess an operating mind.

There are several possible reasons for why people give voluntary false confessions. A pathological need for fame and recognition (Radelet, Bedau, & Putnam, 1992) or as Note (1953) phrased a "morbid desire for notoriety" (p. 382) could account for the false confessions in cases which receive wide spread public attention such as the Lindbergh kidnapping case and the "Black Dahlia" murder. Radelet et al. (1992) reported a case in which a man falsely confessed to a murder to impress his girlfriend. Gudjonsson (1999) conducted an extensive psychological evaluation of Henry Lee Lucas who is estimated to have confessed to over 600 murders. Gudjonsson concluded that Lucas "would say and do things for immediate gain, attention and reaction....he was eager to please and impress people....the notoriety aspect of the confessions was appealing to him and fed into his psychopathology" (p. 423).

Frequently, false confessions are offered to protect a friend or relative, a fact often revealed in interviews with juvenile defenders (Gudjonsson, 1992; Gudjonsson & MacKeith, 1990). Huff, Rattner, & Sagarin, (1996) describe a scenario in which an innocent husband and wife are being held by police and the man falsely confesses to allow the wife to return home to tend to the children. Other possible motives for voluntary false confessions include an "unconscious need to expiate guilt over previous transgressions through self-punishment," (Kassin & Wrightsman, 1985, p. 77). Gudjonsson (1992) points out that a previous transgression can be either a real or an imagined act. Gudjonsson further states that the transgression does not necessarily have to be identifiable, "some individuals have a high level of generalized guilt, which is not related to a specific transgression, and this may influence a range of their behaviours [sic], including their need to volunteer a false confession" (p. 227). Finally, from my own experience, many individuals who have committed a crime that carries a large penalty will falsely confess to a lesser crime to avoid the more severe punishment associated with the original crime.



### **Coerced-Compliant False Confessions**

Coerced-compliant confessions occur when suspects confess, despite the knowledge of their innocence, due to extreme methods of police interrogations (Gudjonsson, 1991, 1992; Gudjonsson & MacKeith, 1990; Kassin, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993). Numerous false confessions that were elicited through the use of torture, threats, and promises were presumed to be of this type, as in the Salem witchcraft confessions in the 17th century (Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993). The best known classic example of a coerced-compliant false confession is the case of *Brown v. Mississippi* (1936).

“Brainwashing,” a technique commonly used on POWs falls under the category of coerced-compliant false confession. Almost forty years ago, during the Korean War, reports by the North Koreans stated that a number of captured American military men had confessed to a number of treasonable acts and expressions of disloyalty to the U. S. (Bem, 1966; Wrightsman & Kassin, 1993). Hunter (1960) examined the brainwashing methods used by the communists during the Korean War. The prisoners would attend communist indoctrination lectures, for a minimum of four hours, at least once per day. During these lectures, the prisoners would be forced to make a confession and express the communist point of view in his own words. The rationale behind forcing the prisoners to confess was to have it become second nature for them and become a part of their mentality. As Hunter (1960) points out:

Each time a U.N. soldier stood up and used the words “I confess,” his Red masters were confident that in the back of his mind a tiny trace at least of this intrinsic content of the world would filter down, even if only subconsciously. Each time he repeated it, they were certain a little more of this content was being rubbed onto his mentality. The communists actually heard him saying each time, in their double talk, “I submit,” getting himself accustomed to the thought. (p. 238)

Similar confessions were made by some of the American POWs in the Vietnam War. During the first week of the Persian Gulf War in 1991, American TV viewers saw the grim and swollen faces of captured American airmen, and as reported by Fleming and Scott (1991), “each of the pilots identified himself and delivered a short speech deploring their government’s involvement in Operation Desert Storm” (p. 127).

### **Coerced-Internalized False Confessions**

The third type of false confession is coerced-internalized, that is, when suspects who are innocent, but anxious, fatigued, pressured, or confused, and then subjected to highly suggestive methods of police interrogation, actually come to believe that they committed the crime (Kassin, 1997; Kassin & Kiechel, 1996; Kassin & Sukel, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993). What is frightening about this type of false confession is that the innocent suspects’ memory of their own actions may

be altered, making its “original contents potentially irretrievable.” (p. 226, Kassin, 1997; p. 78, Kassin & Wrightsman, 1985).

There are remarkable cases involving coerced-internalized false confessions. Kassin (1997) asserts that they all have two factors in common, namely: (a) a suspect who is vulnerable--i.e., one whose memory is malleable by virtue of his/her youth, interpersonal trust, naiveté, suggestibility, lack of intelligence, stress, fatigue, alcohol, or drug use, and (b) the presentation of false evidence such as a rigged polygraph or other forensic tests (e.g., bloodstains, semen, hair, fingerprints), statements supposedly made by an accomplice, or a staged eyewitness identification as a way to convince the beleaguered suspect that he or she he is guilty. (p. 227)

Until recently, there was no empirical evidence for the concept of coerced-internalized false confessions. However, eyewitness memory researchers have found that misleading post-event information can alter actual or reported memories of observed events (Cutler & Penrod, 1995; Loftus, 1979; Loftus & Ketcham, 1994). Recent studies suggest that it is even possible to implant false “recollections” of isolated childhood experiences, such as being lost in a shopping mall, that supposedly had been forgotten or buried in the unconscious, but in reality never happened (Loftus & Ketcham, 1994).

Various theories have been developed to respond to the question: What is it about police interrogation that cause some innocent people to incriminate themselves? From a psychological viewpoint (e. g., Kassin, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993), coerced-compliant false confessions are explained by the innocent suspect’s wish to escape an aversive situation and ensure a pleasant consequence. But what about the more baffling examples of internalized false confessions?

To account for the phenomenon of internalized false confessions, some observers (e. g., Ofshe, 1992; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993) have compared the interrogation process to hypnosis. Foster, referring to the “station house syndrome,” asserted that police questioning “can produce a trance-like state of heightened suggestibility in the suspect” so that “truth and falsehood become hopelessly confused in the suspect’s mind” (1969, pp. 690-691). A. A. Liebault was a physician in the 1860s who believed that hypnosis was based on the implantation of a fixed idea in the mind of the subject. The subject relinquished his or her freedom of choice and carried out any suggestion that had been implanted in their mind (Laurence & Perry, 1988). In 1970, Weinstein, Abrams, and Gibbons discovered that when a false sense of guilt is introduced into the minds of hypnotized individuals, they fair less in a polygraph lie detector test.

## **Interrogative Suggestibility**

Gudjonsson and Clark (1986) proposed the concept of interrogative suggestibility to account for the individual differences in responses to police questioning. Gudjonsson defines interrogative suggestibility as “the extent to which within a closed social interaction, people come to accept messages communicated during formal questioning, as the result of which their subsequent behavioral response is affected” (1991, p. 280). Gudjonsson (1991) reported five interrelated components that are part of the concept of interrogative suggestibility: (a) a closed social interaction between the interrogator and the interviewee, (b) a questioning procedure that involves two or more participants, (c) a suggestive stimulus, [e.g., a specific influential message (Schumaker, 1991) or a hint, cue, or idea (Gudjonsson, 1992)], (d) acceptance of the suggestive stimulus, and (e) a behavioral response to indicate whether or not the suggestion is accepted (p. 280). Gudjonsson (1991) further explains that interrogative suggestibility differs from other types of suggestibility in four ways: (a) the above-mentioned closed nature of the social interaction, (b) the questions asked deal mainly with past experiences and recollections, (c) the situation has a component of uncertainty, and (d) the situation is stressful with important consequences for the person being interviewed. In this situation, the interrogator can manipulate three aspects--uncertainty, interpersonal trust, and expectation--to alter the person’s susceptibility to suggestions.

But characteristics of the person being interviewed also affect the level of his or her suggestibility, (e.g., people who are suspicious are less suggestible than those who are trusting). Those with low intelligence and poor memories are generally more suggestible; low self-esteem, lack of assertiveness, and anxiety also affect suggestibility (Gudjonsson, 1991, 1999). Moreover, Gudjonsson observes those who were most suggestible as having:

. . . failed to be able to evaluate each question critically and give answers that to them seemed plausible and consistent with the external cues provided. Nonsuggestible subjects, on the other hand, were able to adopt a critical analysis of the situation which facilitated the accuracy of their answers. (1991, p. 285)

An example can be found in the case of Delbert Ward, an introverted, easygoing but frail 59-year-old farmer with an IQ of 69 and functioning only in the “educably mentally retarded” range. Following long hours of intense questioning and surrounded by five or six 250-pound state troopers, Ward signed a false confession of murdering his own brother. Forensic pathologist Cyril Wecht (1994), stated in his book, *Cause of Death*, that according to Dr. Blumetti, the clinical psychologist who interviewed Ward, “Delbert would likely have been so nervous and confused at the time of his interrogation that he would have agreed with anything.” [He added that his ability to reason was impaired and that his major focus would have been] “to get out of

that setting. . . . His focus would not be on the questions he was being asked, but on getting out of that unfamiliar, threatening environment” (pp. 255-256).

Internalized false confessions, from another viewpoint, could result from a process of self-perception. Bem (1966) probed the idea that a false confession could alter the recollection of a person’s past behavior if the confession is given in the presence of cues previously associated with telling the truth (e.g., reassurance that one need not admit to wrongdoing). The result of his experiment led Bem to conclude that under conditions normally associated with telling the truth, subjects came to believe the lies they had been induced to tell. Bem (1967) further noted that “saying becomes believing only when we feel the presence of truth, and certainly only when a minimum of inducement and the mildest and most subtle forms of coercion are used” (pp. 23-24). Bem’s self-perception theory partially explains the internalized false confession phenomenon (Reifman, 1998). Closely related to Bem’s theory is an interrogation tactic described by Driver (1968) of having the suspect repeat the story over and over, for “if duped into playing the part of the criminal in an imaginary sociodrama, the suspect may come to believe that he was the central actor in the crime” (p.53). Another factor to consider in regard to internalized false confessions is the two-factor theory of emotions proposed by Schachter and Singer (1962). According to this theory, the experience of emotion depends on an interaction of two factors: (1) physiological arousal and (2) cognitive processes. As a result of this interaction, the individual is thought to experience an emotional state. Suggestible individuals during a police interrogation may cognitively label physiological response as guilt and would conclude that they are feeling guilty therefore they must have had some involvement in the crime. The result may be an internalized false confession.

#### **Other Psychological Factors that Influence Innocent Suspects to Confess Falsely**

Eysenck (1964) concurs with Gudjonsson that innocent suspects that have certain personalities and characteristics are also more prone to suggestibility, and are thus more likely to give false statements and confess to crimes that they did not commit. According to Eysenck, introverts are capable of being conditioned more easily than extroverts. Since most criminals are extroverts, the methods of interrogation that are designed to effectively deal with the typical extrovert criminal may have an overwhelming impact on a suspect who is an easily-conditionable introvert. Therefore, in addition to children, the mentally retarded (Perske, 1994) and the feeble-minded, perhaps individuals who are exceptionally introverted, as in the case of Delbert Ward (Wecht, 1994), are also at risk. Perhaps a certain amount of stress applied to a normal person may get the truth out of him or her; but if a lot of stress is applied to the psychologically inadequate, the result could likely be a false confession (Brandon & Davies, 1973, Gudjonsson, 1992). The aforementioned psychological theories suggest some of the factors that may influ

ence innocent suspects to give false confessions. What will be explored next are the types of psychological and social influence police interrogators use to get suspects to confess.

For law enforcement officials (Kassin, 1997), the purpose of interrogation is twofold: to obtain a full or partial confession and to elicit information on other evidence that is relevant to a case. Observational studies (e. g., Driver, 1968; Kassin, 1997; Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993; Zimbardo, 1967) have shown that the use of physical force has given way to more psychologically oriented methods, such as feigned sympathy and friendship, appeals to God and religion, the use of informants, the presentation of false evidence, and other forms of trickery and deception (Leo, 1992). After spending a year following homicide detectives in Baltimore, Simon (1991) described the police interrogator as:

. . . a salesman, a huckster as thieving and silver-tongued as any man who ever moved used cars or aluminum siding, more so, in fact, when you consider that he's selling long prison terms to customers who have no genuine need for the product. (p. 213)

Many observers contend that deceptive and deceitful practices being used by police during the interrogation process may result in false confessions (e. g., Bedau & Putnam, 1994; Brandon & Davies, 1973; Driver, 1968; Frisman, 1995; Greenspan, 1996; Kassin, 1997; Kassin & Sukel, 1997; Macdonald, 1969; Macdonald & Michaud, 1987; McCann, 1998; Ofshe, 1991; Rogers & Mitchell, 1991; Schafer, 1968; Underwager & Wakefield, 1992; Wecht, 1994; Wood, 1995; Zimbardo, 1967). The polygraph or "lie-detector" and truth serum tests are some of the practices often manipulated by the police (Inbau, Reid, & Buckley, 1986; Macdonald, 1969; Macdonald & Michaud, 1987). Underwager and Wakefield (1992) have seen several cases through their analysis of videotapes, audiotapes, and documents of actual police interrogations, some in which the accused were falsely told that they had failed the lie detector test and should therefore confess. However, in these cases the lie detector test was not failed, but proved to be inconclusive.

Most people have no idea "how incompletely and inaccurately (they) understand the way lie detectors really work. . . . (they) share the popular misconception that polygraphs don't make mistakes..." (Radelet, Bedau, & Putnam, 1992, p. 221). However, contrary to popular belief, polygraphs *do* make mistakes (Bedau & Putnam, 1996; Radelet et al., 1992; Underwager & Wakefield, 1992). The person who conducts the test and interprets the data may affect the outcome of the polygraph. It would be particularly troubling if the polygraph examiner began the examination with a preconception that the suspect was likely guilty. An egregious misuse of the polygraph would be to use it only as an interrogative wedge to move a person already assumed to be guilty toward a confession.

The term “truth serum” was coined to describe the use of scopolamine, a type of drug used as a means of obtaining confessions from criminals and of exonerating the innocent. The term has since been applied to any drug which is employed to obtain confessions. A drugged person is highly suggestible, and this type of condition may lead to false or misleading answers especially when the questions are phrased improperly (Macdonald, 1969). Inbau, Reid, and Buckley (1986) opined that such tests are often effective on persons who, if properly interrogated, would have been truthful anyway. The person who is determined to lie will usually be able to continue the deception even under the influence of the drug. On the other hand, the person who is likely to confess will probably do so as the result of skillful police interrogation, and it will not be necessary to use drugs.

The length of the interrogation may also have an impact on its outcome. In several of the cases noted, such as *Chambers v. Florida* (1940), the suspect was subjected to five days of prolonged questioning before a confession was obtained. This technique is commonly known as the “wear down” process and involves detaining an individual for a lengthy period of time whereas the focus of the individual becomes on short-term gratification (i.e., removing one self from the present situation) while failing to consider the long-term consequences (i.e., a possible sentence). While referring to such a process concerning the Salem witch trials, Munsterberg (1908) commented: “In tedious examinations the prisoners were urged to confess through many hours till the accused were wearied out by being forced to stand so long or by want of sleep” (p. 148). Brandon & Davies (1973) observe that “almost anybody could be worn down by such a process if it goes on long enough, and is tough enough” (p. 52). Gudjonsson and Sigurdsson (1994) found that the most common reason inmates in an Icelandic prison made a false confession was to escape police pressure and to get out of police custody. It is my own belief that an innocent suspect could be made to admit almost anything under the pressure of continuous questioning and suggestion. The individual would experience a feeling of incompetence that would increase feelings of helplessness and lack of control over the situation and then simply “submit.”

### **The Court’s Opinion on Police Interrogation**

The Supreme Court of the United States, upon making its decision in the landmark case *Miranda v. Arizona* in 1966, quoted from the most prominent textbook, of that time, for training police officers, Inbau and Reid’s (1962) *Criminal Interrogation and Confessions*, to show that police used deception and psychologically coercive methods in questioning suspects (Underwager & Wakefield, 1992). The Court concluded that police questioning is oriented psychologically rather than physically, but that the rate of duress inherent in the situation was not diminished; recent observers concur (e. g., Kassin, 1997; Kassin & Wrightsman, 1985; Underwager & Wakefield, 1992). In *Miranda v. Arizona* (1966), the Supreme Court held that a confession, ob

tained from a suspect in custody during police interrogation, was admissible only if it was made voluntarily, not coercively, and only if the police had taken the appropriate steps to ensure protection of the rights of the accused under the self-incrimination clause of the Fifth Amendment (Driver, 1968; Kassin, 1997; Kassin & Wrightsman, 1985; Underwager & Wakefield, 1992). That is, the police must advise suspects in custody of their constitutional rights to silence and to counsel. Law enforcement advocates immediately protested that this decision would handcuff the police in their efforts to elicit confessions (Kassin, 1997). Legal scholars soon concluded that the Supreme Court's ruling was not having this effect. In fact, research suggested that many juvenile suspects did not fully understand the rights they were given (Grisso, 1981, 1998).

Today, the Miranda issue is still in dispute. Critics of the Miranda warnings maintain that the confession and conviction rates have dropped significantly as a direct result of the warning and waiver requirements, thus triggering the release of dangerous criminals (Cassell, 1996). Proponents of the Miranda warnings, on the other hand, argue that the actual declines are in substantial (Schulhofer, 1996), that four out of five suspects waive their rights and submit to questioning, and that the Miranda decision has had a civilizing effect on police interrogation practices and has increased public awareness of constitutional rights (Leo, 1996).

#### **Possible Consequences During Police Interrogation**

Being interrogated by the police is a highly stressful experience. This stress can worsen when the suspect is isolated. Gudjonsson and MacKeith (1990) agree that isolation and confinement can cause a wide range of behavioral and physiological disturbances including loss of contact with reality. Furthermore, they note that factors encouraging a suspect to make a genuine confession may be similar to those influencing a person to make a false confession. They state that "non-psychotic individuals ruminating guiltily about such things as sexual deviation may also have an exceptionally low threshold to confession to things that they have not actually done." (cited in Underwager & Wakefield, 1992). The false confessor may be aware that she or he is not telling the truth or his or her perceptions may be distorted or she or he might even be deluded for a brief period of time. A false confession in all of these situations is an interplay between the person's mental state, basic personality, intelligence, and all of the circumstances of the interrogation (Gudjonsson & MacKeith, 1990).

#### **Demand Characteristics of Police Interrogation**

In order to increase the likelihood of a confession from a suspect by police, the following conditions must be met. During questioning, an environment that minimizes sensory stimulation, maximally exposes the suspect's vulnerability, and provides for complete control and domination by the interrogator must be created (Zimbardo, 1967). Privacy, being totally alone

with suspects, is therefore highly imperative, for it is the primary psychological factor conducive to successful interrogations (Inbau & Reid, 1967; Tousignant, 1991). Several authors (e. g., Inbau & Reid, 1967; Inbau et al., 1986; Macdonald, 1969; Tousignant, 1991; Zimbardo, 1967) concur that the location must have surroundings that are unfamiliar to the suspect. The interviewing room must be free from noise, must have no windows, and must be bare except for a table and a couple of chairs: one for the suspect and one for the interrogator. The interrogator must try to establish a superficial friendship with the suspect as well as exhibit unexpected kindness. The former must also feign the seriousness of the crime by excusing the crime (minimization of seriousness). Other strategies include employing the sympathetic approach, trickery, and deceit (Inbau & Reid, 1967; Inbau et al., 1986; Macdonald, 1969; Macdonald & Michaud, 1987).

The above-mentioned are only part of the demand characteristics of police questioning and are constituents of the 16 strategies for interrogation proposed by Inbau, Reid, and Buckley's manual (1987). According to Underwager and Wakefield (1992), the U. S. Supreme Court noted that these 16 strategies show three major recurring themes in the manual: 1. The first is to reattribute the implications of the situation by shifting the blame or minimizing the seriousness. 2. Alternatively, the questioning may aim at frightening the individual by exaggerating the evidence available, the consequences to the individual, or stating firmly that the interrogator knows the person is guilty. 3. The third theme is the emotional appeal to the person being questioned by showing sympathy, flattery, respect, and appeal to the best interest of the suspect. These are some of the practices the court found inherently coercive. (p. 166)

The police methods designed to obtain confessions can potentially undermine the concept of a voluntary confession. Based on his review of training manuals, Zimbardo (1967) believes that the interrogation techniques of the police are sometimes more highly developed, more psychologically sophisticated, and more effective than those that were used by the Chinese Communists in Korea.

### **Summary**

There are a significant number of wrongful convictions in the United States. A 1987 study by Bedau and Radelet identified that the primary cause for the conviction of 49 of the 350 cases of miscarriages of justice in the U. S. was a false confession obtained by coercive police questioning. How often false confessions result in wrongful convictions is unknown, although some observers (e. g., Kassin & Wrightsman, 1985; Wrightsman & Kassin, 1993; Wrightsman et al., 1994) attest that enough cases have been documented to suggest that a concern over such a risk is justified. A review of the literature indicated that there are a limited number of research studies and little



empirical data available for extensive study in the psychology of false confessions.

There are psychological and social factors that influence innocent suspects to give self-incriminating false statements such as suggestibility. There are other variables as well. Deception and deceit, together with other questionable and inappropriate police interrogation and investigative procedures seem to be common and continue to be employed during the interrogation process. An indeterminate number of false confessions may be attributed to the inherently coercive nature of police interrogation during which deceptive and deceitful practices may be used and approved by the judicial system.

### **Conclusions**

First, in view of the current research findings on false confessions, one must take a closer look at the formidable and detrimental impact of questioning techniques employed by police interrogators and investigators. Several studies (Baldwin, 1993; Fisher, Geiselman, & Raymond, 1987; Moston, Stephenson, & Williamson, 1992) have shown that overall, police investigators possess poor interviewing skills. Some of the more questionable interviewing techniques noted in the studies included interrupting the suspect, asking questions in a rapid manner (Baldwin, 1993; Fisher, Geiselman, & Raymond, 1987), possessing a limited degree of flexibility during the interview (Moston, Stephenson, & Williamson, 1992), inappropriate sequencing of questions, negative phrasing of questions, nonneutral wording of questions, inappropriate language, and judgmental comments (Fisher, Geiselman, & Raymond, 1987). In light of the results of these studies and the fact that police spend as much as 85% of their on duty time talking to people (Miline & Bull, 1999), it seems apparent that police investigators should receive special training in appropriate interviewing skills and be instructed of the dangers of not using such skills. During training, special attention should also be given to dealing with individuals with special needs such as the mentally handicapped. In the UK, this issue has been addressed. Juveniles, the mentally ill, and the mentally handicapped are identified as "at risk," and during interrogation, an appropriate adult (e.g., parent, social worker) must be present to assist with communication and safeguard the rights of the individual (McKenzie, 1994). Effective communication practices by investigators will lead to accuracy (Shuy, 1998) and accountability in the criminal justice system and hopefully reduce the number of erroneous convictions.

Second, the judicial system needs to be more cognizant of the inappropriate approaches of eliciting confessions from suspects in custody. Interrogations should be centered around eliciting the truth rather than attempting to secure a confession. When questioning a potential suspect, the investigator should thus assume a disinterested role rather than an adversarial one. Research has shown that many of the tactics used to persuade a suspect who

is reluctant to volunteer information described in popular interrogation manuals such as Inbau, et al. (1986), are quite unnecessary and fail to persuade suspects to alter their initial response given to police investigators (Baldwin, 1993; Moston, Stephenson, & Williamson, 1992). In reviewing 600 police interrogations in the UK, Baldwin (1993) found that only three suspects were persuaded to change their initial statements during an interview due to the persuasive skills of the interrogator. Baldwin calls for such interrogation techniques to be outlawed in order for the concern over miscarriages of justice to be minimized.

Related to this issue is the length of the interrogation process which also seems to have an impact on the possibility of a false confession. The longer the interrogation process, the greater the likelihood of an untrustworthy confession (Leo & Ofshe, 1998; Munsterberg, 1908; White, 1998). In many of the cases presented in the Bedau & Radelet (1987) study, the interrogations of suspects lasted for several hours and in some cases several days. Prolonged interrogations were also used in several of the landmark cases presented earlier (i.e., *Chambers v. Florida*). It is important to note that in Baldwin's (1993) study, almost 75% of the interviews were concluded within 30 minutes, which indicates that interrogations can be completed in a reasonable amount of time. In the UK, there are guidelines which limit the length of interrogations (36 hours; 96 with court approval) and the time of day in which the interrogations may take place--they may not take place when the individual would normally be sleeping (McKenzie, 1994). Similar guidelines in the United States could perhaps curb the possibility of a coerced confession and save on police resources.

Third, in order to eliminate bias and to ensure the accuracy and authenticity of confessions, it is imperative that statements issued be corroborated by evidence. In several of the cases reviewed (e.g., *Brown v. Mississippi*) and in a substantial number of cases from studies cited (e.g., Bedau & Radelet, 1987), many of the defendants were tried, convicted, and sentenced on the basis of a confession alone; there was no physical evidence linking them to the crime in question. Gudjonsson (1992) points out that in Scotland an individual can not be convicted solely on the basis of a confession. Such a procedural safeguard in the United States would relieve any doubts about the authenticity of a suspect's confession.

Fourth, in order to ensure the validity and veracity of the obtained confessions, I propose a videotaping or audiotaping of *all* interrogations. Opponents of videotaping argue the practice would discourage confessions from suspects and be quite costly (Higgins, 1998). However, an exploratory study on videotaping interrogations and confessions by Geller (1993) found that 63.1% of the police agencies surveyed reported no change in suspects' willingness to talk, and 60% reported that more incriminating information was given by suspects while being videotaped. The study also found that since the adoption of videotaping, claims of police misconduct were reduced, and 97% of police agencies reported videotaping to be useful. Based on the re

search, it would seem that a mandatory videotaping requirement would serve a dual purpose of protecting police agencies from claims of misconduct and safeguarding the rights of suspects. The costs of implementing videotaping would be offset by reducing officer stress and burnout (Geller, 1993), not to mention the costs associated with exonerating an individual who has been incarcerated. As of this writing, in the United States, only Alaska and Minnesota require the videotaping of interrogations (Higgins, 1998), while in England and Wales the recording of suspect interviews is mandatory (McKenzie, 1994).

Finally, additional research on the subject of false confessions is required. To date, only one laboratory experiment has been conducted on the subject. Kassin and Kiechel (1996) hypothesized that:

the presentation of false evidence can lead individuals who are vulnerable (i.e., in a heightened state of uncertainty) to confess to an act they did not commit and, more important, to internalize the confession and perhaps confabulate details in memory consistent with that new belief. (p. 126)

To test this hypothesis, Kassin and Kiechel (1996) asked 79 students to participate in a reaction time experiment. After being warned not to touch the "ALT" key because the computer would crash, a confederate read letters to the participants in two different speeds to manipulate the participant's vulnerability. After 60 seconds, the computer was purposefully crashed by the experimenters. None of the participants was responsible for causing the computer to crash; however, each was blamed for doing so.

Half of the participants were told that the confederate had seen them hit the "ALT" key. Participants were then asked to sign a handwritten confession that they had hit the "ALT" key causing the computer to crash. Overall, 69% of the subjects signed the confession, 28% internalized their guilt (believing they had hit the wrong button), and 9% confabulated details to fit with their false belief that they had caused the computer to crash. The most vulnerable group was the fast typing/false evidence (having been "seen" hit the key); 100% of this group signed the confession. This study supported the notion that when presented with false evidence people can be induced to internalize guilt for an event with which they had no involvement. Kassin and Kiechel (1996) also recommend that additional research is needed to examine other methods commonly used in police interrogation manuals (e.g., minimization) and other risk factors (i.e., sleep deprivation, etc.) that could possibly lead to an unreliable confession. It is also hoped that in the future, with the increased use of videotaping interrogations, further research can be conducted to clarify some of the gray areas regarding false confessions. This research could perhaps facilitate appropriate legislation in the regulation of questionable interrogation tactics.

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