

False Confessions

Causes, Consequences, and Implications for Reform

Saul M. Kassin

John Jay College of Criminal Justice

ABSTRACT—*Despite the commonsense belief that people do not confess to crimes they did not commit, 20 to 25% of all DNA exonerations involve innocent prisoners who confessed. After distinguishing between voluntary, compliant, and internalized false confessions, this article suggests that a sequence of three processes is responsible for false confessions and their adverse consequences. First, police sometimes target innocent people for interrogation because of erroneous judgments of truth and deception. Second, innocent people sometimes confess as a function of certain interrogation tactics, dispositional suspect vulnerabilities, and the phenomenology of innocence. Third, jurors fail to discount even those confessions they see as coerced. At present, researchers are seeking ways to improve the accuracy of confession evidence and its evaluation in the courtroom.*

KEYWORDS—*police interrogation; confessions; evidence*

In criminal law, confession evidence is highly persuasive—yet fallible. Despite the pervasive myth that people do not confess to crimes they did not commit, the pages of American history, beginning with the Salem witch trials of 1692, bear witness to all the men and women who were wrongfully convicted and imprisoned, often because of false confessions. Although the prevalence rate is unknown, recent analyses reveal that 20 to 25% of prisoners exonerated by DNA had confessed to police, that the percentage is far higher in capital murder cases (White, 2003), and that these discovered instances represent the tip of an iceberg (Drizin & Leo, 2004).

After reviewing a number of cases throughout history, and drawing on theories of social influence, Wrightsman and I proposed a taxonomy that distinguished three types of false confessions: *voluntary*, *compliant*, and *internalized*. Still used today, this classification scheme has provided an important

framework and has since been used, critiqued, extended, and refined in subtle ways (Kassin & Wrightsman, 1985).

Voluntary false confessions are those in which people claim responsibility for crimes they did not commit without prompting from police. Often this occurs in high-profile cases. When *Black Dahlia* actress Elizabeth Short was murdered in 1947, more than 50 people confessed. In 2006, John Mark Karr confessed to the unsolved murder of young JonBenet Ramsey. There are several reasons why innocent people volunteer confessions, such as a pathological need for attention or self-punishment, feelings of guilt or delusions, the perception of tangible gain, or the desire to protect someone else.

In contrast, people are sometimes induced to confess through the processes of police interrogation. In compliant false confessions, the suspect acquiesces in order to escape from a stressful situation, avoid punishment, or gain a promised or implied reward. Like the social influence observed in Milgram's classic obedience studies, this confession is an act of public compliance by a suspect who perceives that the short-term benefits of confession outweigh the long-term costs. This phenomenon was dramatically illustrated in the 1989 Central Park jogger case, in which five New York City teenagers confessed after lengthy interrogations, each claiming he expected to go home afterward. All the boys were convicted and sent to prison, only to be exonerated in 2002 when the real rapist gave a confession that was confirmed by DNA evidence.

Lastly, internalized false confessions are those in which innocent but vulnerable suspects, exposed to highly suggestive interrogation tactics, not only confess but come to believe they committed the crime in question. The case of 14-year-old Michael Crowe, whose sister was stabbed to death, illustrates this phenomenon. After lengthy interrogations, during which Crowe was misled into thinking there was substantial physical evidence of his guilt, he concluded that he was a killer: "I'm not sure how I did it. All I know is I did it" (Drizin & Colgan, 2004, p. 141). Eventually, he was convinced that he had a split personality—that "bad Michael" acted out of jealous rage while "good Michael" blocked the incident from consciousness. The charges against Crowe were later dropped when a drifter from the neighborhood was found with Crowe's sister's blood on his clothing.

Address correspondence to Saul Kassin, Department of Psychology, the John Jay College of Criminal Justice, 445 West 59th Street, New York, NY 10019, USA; e-mail: skassin@jjay.cuny.edu.

Inspired by tales of innocents wrongfully convicted, recent research has focused on three sets of questions: (a) Why are innocent people often misidentified for interrogation, (b) what factors put innocent suspects at risk to confess, and (c) how accurate are police, juries, and others at judging confession evidence?

WHY INNOCENT PEOPLE ARE INTERROGATED

Typically, the confrontational process of *interrogation* is preceded by an information-gathering *interview* conducted by police to determine if a suspect is guilty or innocent. In *Criminal Interrogations and Confessions* (Inbau, Reid, Buckley, & Jayne, 2001), the most influential manual on interrogation, police are thus advised on the use of verbal cues, nonverbal cues, and behavioral attitudes to detect deception—at, they claim, exceedingly high levels of accuracy.

For a person who is falsely accused, this first impression may determine whether he or she is interrogated or sent home. Yet in laboratories all over the world, research has shown that people are only about 54% accurate in judging truth and deception; that training produces little, if any, improvement compared to naive control groups; and that police, customs inspectors, and other so-called experts perform only slightly better, if at all (Bond & DePaulo, 2006).

In a study that examined performance in a criminal context, some lay participants but not others were randomly assigned to training in a popular law enforcement method of lie detection (Kassin & Fong, 1999). These students then watched videotaped interviews of suspects, some guilty and others innocent, denying their involvement in various mock crimes. As in past studies, observers could not differentiate between guilty and innocent suspects. Importantly, those who underwent training were less accurate, more confident, and more biased toward seeing deception than were those who had not received training. In a follow-up study with these same tapes, experienced detectives were tested—and they exhibited the same tendencies, making prejudgments of guilt, with confidence, that were frequently in error (Meissner & Kassin, 2002).

At present, psychological scientists are seeking ways to improve human lie-detection performance. Some studies have shown that interviewers can boost their accuracy by withholding crime details while questioning suspects, trapping those who are guilty, but not those who are innocent, in inconsistencies when these facts are disclosed (Hartwig, Granhag, Strömwall, & Vrij, 2005). Other studies have suggested that because lying is more effortful than telling the truth, interviewers who tax a suspect's cognitive load (e.g., by distraction or by having interviewees tell their stories in reverse order) can make more accurate true/false judgments by attending to effort cues such as hesitations (Vrij, Fisher, Mann, & Leal, 2006).

WHY INNOCENT PEOPLE CONFESS

Observational studies and surveys have shown that the modern American police interrogation—in which interrogators are

TABLE 1

Ten Most Frequent Interrogation Practices, as Self-Reported by 631 North American Detectives (Kassin et al., 2007)

Tactic	Estimated Frequency
Isolating the suspect from family and friends	4.49
Conducting interrogation in a small private room	4.23
Identifying contradictions in the suspect's story	4.23
Establishing rapport/gaining the suspect's trust	4.08
Confronting the suspect with evidence of guilt	3.90
Appealing to the suspect's self-interest	3.46
Offering sympathy, moral justifications, & excuses	3.38
Interrupting the suspect's denials and objections	3.22
Pretending to have independent evidence of guilt	3.11
Minimizing the moral seriousness of the offense	3.02

Note. Ratings were made on a 1-point (*never*) to 5-point (*always*) scale.

legally prohibited from drawing confessions through violence, physical discomfort, threats, or promises—is a psychologically oriented process (Kassin et al., 2007; Leo, 1996; see Table 1). In their training manual, Inbau et al. (2001) recommend a multistep approach that is essentially reducible to an interplay of three processes: *isolation*, which increases anxiety and the suspect's desire to escape; *confrontation*, in which the interrogator accuses the suspect of the crime, sometimes citing real or fictitious evidence to bolster the claim; and *minimization*, in which a sympathetic interrogator morally justifies the crime, leading the suspect to expect leniency upon confession.

Situational Risk Factors

Anecdotal evidence from DNA exonerations suggests that certain interrogation tactics exert too much influence. One potentially problematic tactic is the presentation of false evidence. American police are permitted to bolster their accusations by telling suspects that there is incontrovertible evidence of their guilt (e.g., a hair sample, eyewitness identification, or failed lie-detector test)—even if no such evidence exists. Can such trickery trap innocent people into confession?

Over the years, basic research has shown that misinformation can alter people's perceptions, beliefs, memories, and behaviors. With regard to confession, this hypothesis was tested in a laboratory experiment (Kassin & Kiechel, 1996). College students typed on a keyboard in what they were led to believe was a reaction-time study. At one point, subjects were accused of causing the computer to crash by pressing a key they had been instructed to avoid. They were asked to sign a confession. All subjects were truly innocent and all initially denied the charge. In some sessions but not others, a confederate said she witnessed the subject hit the forbidden key. This false evidence nearly doubled the number of students who signed a written confession, from 48% to 94%. As measured moments later, this manipulation also increased the number of subjects who actually believed

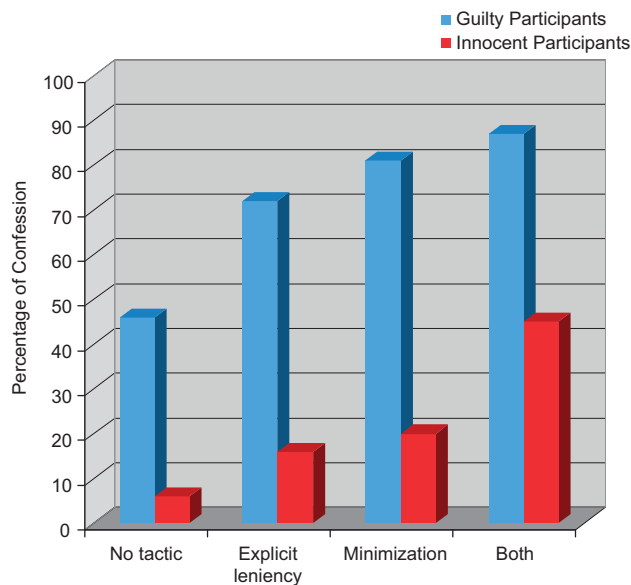


Fig. 1. Percentage of guilty and innocent subjects who confessed to cheating after a promise of leniency, minimization remarks, both tactics, or no tactics (Russano, Meissner, Narchet, & Kassin, 2005).

they were culpable. Follow-up studies have replicated the effect even when the negative consequences of confession were raised.

A second problematic tactic is minimization, the process by which interrogators minimize the crime by offering sympathy and moral justification. Interrogators thus suggest to suspects that their actions were spontaneous, accidental, provoked, peer-pressured, or otherwise justifiable. Past research has shown that minimization remarks lead observers to infer that leniency will follow from confession, even without an explicit promise. To assess the behavioral effects of this tactic, researchers paired subjects with a confederate for a problem-solving study and instructed them to work alone on some trials and jointly on others (Russano, Meissner, Narchet, & Kassin, 2005). In a guilty condition, the confederate sought help on an individual problem, inducing the subject to violate the experimental rule; in the innocent condition, the confederate did not make this request. The experimenter soon “discovered” a similarity in solutions, separated the subject and confederate, and accused the subject of cheating. Blind to guilt or innocence, the experimenter tried to get the subject to sign an admission by promising leniency, making minimizing remarks, using both tactics, or using no tactics. Compared to the no-tactics condition, minimization—as effectively as an offer of leniency—increased not only true confessions from the guilty but false confessions from the innocent (see Fig. 1).

Dispositional Vulnerabilities

Some people are dispositionally more malleable than others—and at greater risk for false confessions. For example, individuals whose personalities make them prone to *compliance* in

social situations are especially vulnerable because of their eagerness to please others and avoid confrontation. Individuals who are prone to *suggestibility*—whose memories can be altered by misleading questions and negative feedback—are also subject to influence. People who are highly anxious, fearful, depressed, delusional, or otherwise psychologically disordered, and people who are mentally retarded, are particularly prone to confess under pressure (for a review, see Gudjonsson, 2003).

Youth is a particularly substantial risk factor. More than 90% of juveniles whom police seek to question waive their *Miranda* rights to silence and a lawyer. In fact, the presence of a parent or other “interested adult”—which many states require, to protect young suspects—does not help, as adults often urge their youths to cooperate with police (Oberlander & Goldstein, 2001). The problem is evident in the disproportionate number of juveniles in the population of false confessors (Drizin & Leo, 2004). As to what makes juveniles so vulnerable, developmental research indicates that adolescents display an “immaturity of judgment” in their decision making—a pattern of behavior that is characterized by impulsivity, a focus on immediate gratification, and a diminished capacity for perceptions of future risk (Owen-Kostelnik, Reppucci, & Meyer, 2006). For the myopic adolescent, confession may serve as an expedient way out of a stressful situation. To make matters worse, most justice-involved youth have diagnosable psychological disorders, putting them at “double jeopardy” in the interrogation room (Redlich, 2007).

The Phenomenology of Innocence

On Sept. 20, 2006, Jeffrey Deskovic was released from prison in New York, where he had spent 15 years for a murder he had said he committed but did not. Why did he confess? “Believing in the criminal justice system and being fearful for myself, I told them what they wanted to hear,” Deskovic said. Certain that DNA testing on the semen would establish his innocence, he added: “I thought it was all going to be okay in the end” (Santos, 2006, p. A1).

Anecdotal and research evidence has suggested the ironic hypothesis that innocence itself may put innocents at risk (Kassin, 2005). People who stand falsely accused believe that truth and justice will prevail and that their innocence is transparent to others. As a result, they cooperate with police, waive their rights, and speak freely, often not realizing that they are under suspicion. In a study that illustrates the point, some subjects but not others were assigned to commit a mock theft of \$100, after which they were “arrested” and apprised of their rights by a security guard. As predicted, those who were innocent were more likely to sign a waiver and talk than were those who were guilty (81% vs. 36%). Afterward, most explained that they waived their rights precisely because they were innocent: “I did nothing wrong,” “I had nothing to hide” (Kassin & Norwick, 2004). In short, *Miranda* warnings may not protect citizens who need it most—those accused of crimes they did not commit.

WHY INNOCENT CONFESSORS ARE CONVICTED

When a suspect retracts his or her confession, pleads not guilty, and goes to trial, a sequence of two courtroom decisions is set into motion. First, a judge determines whether the confession was voluntary and admissible as evidence. Then a jury, hearing the admissible confession, determines whether the defendant is guilty beyond a reasonable doubt. But can people distinguish between true and false confessions, or do most people believe, simply, that no one would confess to a crime he or she did not commit?

Addressing the first question, researchers videotaped male prison inmates making true confessions to their crimes and concocting false confessions to crimes they did not commit. When laypeople and police investigators later judged these statements from videotapes or audiotapes, neither group fared well, exhibiting accuracy rates that ranged from 42% to 64% (Kassin, Meissner, & Norwick, 2005). Mock-jury studies have further shown that confession is a highly potent form of evidence and that people do not fully discount confessions even when these confessions are coerced. To illustrate, mock jurors were presented with one of three versions of a murder trial—a low-pressure confession version, a high-pressure confession version, and a no-confession control version. Confronted with the high-pressure confession, subjects judged the statement to be involuntary and said it did not influence their decisions. Yet when it came to verdicts, this same confession significantly boosted the conviction rate—from 19% in the no-confession control group to 47% in the high-pressure confession condition—even when subjects were specifically asked to disregard confessions they thought were coerced (Kassin & Sukel, 1997).

Criminal justice statistics reinforce the point that people uncritically accept confessions, which invariably unleash a chain of adverse legal consequences. In one sample, a striking 81% of innocent confessors who pled not guilty and went to trial were ultimately convicted by juries. Hence, it appears that confessions are “inherently prejudicial and highly damaging to a defendant, even if it is the product of coercive interrogation, even if it is supported by no other evidence, and even if it is ultimately proven false beyond any reasonable doubt” (Drizin & Leo, 2004, p. 959).

CONCLUSIONS AND IMPLICATIONS

Recent DNA exonerations reveal three sets of problems with confession evidence: (a) Police cannot accurately distinguish between truth tellers and liars; (b) certain psychological interrogation tactics put innocents at risk to confess, especially if they are young, mentally impaired, or otherwise vulnerable; and (c) judges and juries intuitively tend to trust confessions, even if they know that these confessions were coerced.

Having identified these problems, psychological scientists now seek solutions that inform policies and practices. One goal is to improve the quality of confession evidence. Hence,

researchers are working on ways to increase the accuracy with which police interviewers judge suspects, to develop methods of interrogation that get offenders but not innocents to confess, and to protect vulnerable suspect populations. A second goal is to improve the way judges and juries evaluate confessions in court. Toward this end, there are two possible mechanisms. One involves a greater use of expert witnesses to educate judges and juries about the psychology of confessions. The second is to ensure that judges and juries can observe how the confessions are produced by requiring that police videotape entire interrogations. In coming years, more research is needed to evaluate the impact of these approaches.

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