

Intellectual Disability and False Confessions

Suggestibility, low intelligence and a confession to crime.

Coid, Jeremy. *The British Journal of Psychiatry*, Vol 139, Nov, 1981. pp. 436-438.

Abstract:

Presents a case that illustrates the practical and ethical difficulties of proving that a defendant has made a false confession to a serious crime. D. H., a 17-yr-old youth (IQ = 85), voluntarily went to the police and signed a confession that he had murdered a 12-yr-old boy, but later claimed that the confession, on which the entire case against him rested, was false. Criteria were devised by which the psychiatrist's report for the defense might prove to the court that D. H. was suggestible. These criteria were not met; it was not possible to demonstrate that the accused could easily be persuaded to change his story or to believe obvious falsehoods; or that he did not understand his situation, or the words and concept in his confession, or the concept of truth; or that he would confabulate or fantasize. These criteria ignore 2 important aspects of the confession: the influence of the police and the situation in which the confession was made.

Learning disability and the police and Criminal Evidence Act 1984. Protection during investigate interviewing: a video-recorded false confession to double murder.

Gudjonsson, Gisli, MacKeith, James. *Journal of Forensic Psychiatry*, Vol 5(1), May, 1994. pp. 35-49.

Abstract:

Reports the case of an adult man with mental retardation who confessed falsely to a double murder during police interviewing under the provisions of the Police and Criminal Evidence Act 1984. The confession was video-recorded and superficially appeared genuine and convincing. A psychological framework is provided to explain the process and mechanism that resulted in the false confession. The framework shows how emotions such as fear and shame can be misinterpreted by detectives as an indication of guilt. The case highlights the risk of a miscarriage of justice when vulnerable suspects are spoken to about a crime by police officers outside the setting of tape-recorded interviews, and the potential dangers of refusing private access to a solicitor and an appropriate adult prior to police interviews.

The vulnerability of suspects with intellectual disabilities during police interviews: A review and experimental study of decision-making.

Clare, Isabel C. H., Gudjonsson, Gisli H. *Mental Handicap Research*, Vol 8(2), 1995. Special Issue: Intellectual disabilities and the criminal justice system. pp. 110-128.

Abstract:

Investigated decision making in regard to the perception of consequences of an action with 21 Ss with intellectual disabilities and 21 controls with average IQ. Ss completed the Wechsler Adult Intelligence Scale—Revised (WAIS—R) and viewed a film of a police interrogation depicting a suspect making a true and a false confession. Compared with controls, Ss with intellectual disabilities were less likely to think that a police interview and false confession might have serious consequences for the suspect. Their views reflected the importance they placed on the suspect's actual, rather than professed, guilt or innocence, and they believed that an innocent suspect might be protected because his innocence would be evident to others. Evidence is reviewed that suspects with disabilities may be at a disadvantage in police interrogations due to impaired understanding of caution and legal rights, and susceptibility to acquiescence, suggestibility, compliance and confabulation.

Prisoners with mental disabilities in 1692 Salem and today.

Perske, Robert. *Mental Retardation*, Vol 35(4), Aug, 1997. pp. 315-317.

Abstract:

Compares prisoners with mental disabilities in 1692 Salem and today, focusing on people with mental disabilities who have forced to confess to heinous crimes, and whose confessions are accepted even though there is no physical evidence to back up their admissions. Like the Salem of old, some communities can still get caught up in an overwhelming urge to cleanse themselves by finding and killing a scapegoat. When that happens, people with mental disabilities can become: the easiest to bear false witness against, to coerce a confession from, to demonize in the press, and to ignore when it comes to fighting for their Constitutional rights.

Mental retardation: Diagnosing mental retardation in criminal proceedings: The critical importance of documenting adaptive behavior.

Everington, Caroline, Keyes, Denis W. *The Forensic Examiner*, Vol 8(7-8), Jul-Aug, 1999. pp. 31-34.

Abstract:

People with mental retardation are encountering the criminal justice system in increasing numbers and nowhere is the vulnerability of these people more evident than in the area of capital crime. Some estimates hold that approximately 11% of the people in maximum security and Death Row have mental retardation. These people experience many marked deficits in essential areas of functioning so as to render them particularly susceptible to false confession, inaccurate statements and testimony, and unjust punishment. This research paper reviews the recent American Association on Mental Retardation definition, rationale, and implications for classification, particularly in regard to assessment of adaptive behavior. Also reviewed is the standardized and interview assessment methodology, with an emphasis on culturally-referenced procedures for documenting adaptive behavior. It is concluded that it is very important to supplement information attained on norm-referenced instruments with alternative assessment methods such as informal interviews and the creation of ecological inventories.

Deception in the interrogation room: Sometimes tragic for persons with mental retardation and other developmental disabilities.

Perske, Robert. *Mental Retardation*, Vol 38(6), Dec, 2000. pp. 532-537.

Abstract:

The author describes how police interrogations can be tragic for persons with mental retardation or other developmental disabilities. Human service agencies and police departments are beginning to compare notes about the possibility of coerced, false confessions. They should be discussing effective interrogation techniques and how they might lead to wrong-man indictments. Then, because persons with mental retardation are increasingly present and active in neighborhoods across the land, there are certain investigative dilemmas that need to be identified and understood as never before. Human service workers should be available to police departments at the earliest moment when someone they have worked with or know about is a suspect in a crime. No police officer wants to pin a crime on an innocent person. When it comes to persons with disabilities, those in the field of mental retardation/developmental disabilities may be able to help the police not make such a mistake.

Psychological assessments of confessions and suggestibility in mentally retarded suspects.

Brodsky, Stanley L., Bennett, Allyson D.. *Journal of Psychiatry & Law*, Vol 33(3), Fal 2005. pp. 359-366.

Abstract:

Concerns about mentally retarded individuals in the justice system have been addressed in research and in recent appellate rulings. Research studies have reported cognitive deficits in decision-making, planning, and rational understanding, as well as, social impairments, limitations in language abilities, and susceptibility to acquiescence and suggestibility. For suspects functioning in the intellectual and adaptive category of mental retardation, a voluntary, knowing, and intelligent waiver of Miranda rights becomes uncertain. The validity of confessions during police interrogations by mentally retarded persons should routinely be questioned. False confessions elicited by leading questions and interrogative pressure can have adverse consequences. No specific legal or clinical guidelines presently exist regarding the assessment of competence to waive Miranda rights in retarded citizens. The present paper explores psychological issues and proposes three domains and five forensic-clinical recommendations in the evaluation of competence to waive Miranda rights in mentally retarded individuals.

False confessions from 53 persons with intellectual disabilities: The list keeps growing.

Perske, Robert. *Intellectual and Developmental Disabilities*, Vol 46(6), Dec, 2008. pp. 468-479.

Abstract:

According to data obtained by author, 53 persons with intellectual and developmental disabilities have confessed to serious felonies--murder, rape, arson, and robbery--that they did not commit. The confessors are listed in this article and presented alphabetically along with the state and year in which they confessed. The specific disability mentioned in each document has been placed between quotation marks.

Colorado governor pardons Joe Arridy.

Perske, Robert. *Intellectual and Developmental Disabilities*, Vol 49(3), Jun, 2011. pp. 192-196.

Abstract:

On January 6, 2011, Colorado Governor Bill Ritter, Jr., granted 'a full and unconditional posthumous pardon to Joe Arridy, who was convicted of killing a 15-year-old Pueblo girl, sentenced to death and executed by lethal gas seven decades ago.' The governor cited that 'an overwhelming body of evidence indicates the 23- year-old Arridy was innocent, including false and coerced confessions, the likelihood that Arridy was not in Pueblo at the time of the killing, and an admission of guilt by someone else.' Volunteer Denver Attorney David Martinez worked on the case for 4 years before organizing his thorough 523-page 'Petition for Pardon' and delivering it to the governor. Notwithstanding this evolution in the law, the granting of a posthumous pardon of Joe Arridy would be an incredible symbolic gesture of hope and progress to individuals with intellectual disability, many of whom are still classified as mentally retarded, who continually encounter discrimination in their daily life. Perhaps, and possibly more important, however, such an Executive Action will proclaim to the greater society the progress that Colorado has made and is making in the transformation of humanity for the greater good of all its citizens, independent of intellectual capacity. It is the next step in creating a brighter future by leaving the past behind.

Perske's list: False confessions from 75 persons with intellectual disability.

Perske, Robert. *Intellectual and Developmental Disabilities*, Vol 49(5), Oct, 2011. pp. 365-373.

Abstract:

The article talks about a list of 53 false confessions. The list presented in the present article contains the names of an additional 22 persons with intellectual disability who were coerced into confessing to major felonies that they did not commit. This list keeps growing, thanks to lawyers who have become more sensitive to such wrongfully convicted persons

and volunteer to fight for their innocence and freedom. Also, there is a heartening wave of Innocence Project organizations that are springing up throughout the nation.

Miranda Rights Comprehension in Young Adults With Specific Language Impairment

Gwyneth C. Rost and Karla K. McGregor. *Am J Speech Lang Pathol.* 2012 May; 21(2): 101–108.

Abstract:

Prosecutorial misconduct and violation of the *Brady* rule in a case involving intellectual disability.

Rai, Sasha, Martinez, Richard P. *Journal of the American Academy of Psychiatry and the Law*, Vol 43(4), Dec 1, 2015. pp. 531-533.

Abstract:

This article discusses prosecutorial misconduct and violation of the Brady rule in a case involving intellectual disability. The case *Gumm v. Mitchell*, 775 F.3d 345 (6th Cir. 2014), the Sixth Circuit Court of Appeals upheld the ruling of the U.S. District Court for the Southern District of Ohio at Cincinnati, vacating a death sentence imposed on a defendant with an intellectual disability. The defendant, Darryl Gumm filed a writ of habeas corpus on four claims to the federal district court. He contended that the state violated the Brady Rule by failing to disclose exculpatory evidence, that he received an unfair trial because of improper admission of incendiary prior bad acts, that admission of a psychiatric report violated the Sixth Amendment's Confrontation Clause and that prosecutorial misconduct caused a denial of due process.

The predictive power of intelligence: Miranda abilities of individuals with intellectual disability.

Erickson, Sydnee L., et al.

Law and Human Behavior, Vol 44(1), Feb, 2020. pp. 60-70.

Abstract (English):

Objective: The *Miranda v. Arizona* (1966) decision was intended to protect individuals' rights in custodial situations. The purpose of this paper was to evaluate Miranda abilities of individuals with intellectual disability and evaluate the utility of intelligence in predicting these abilities. Additionally, we aimed to provide an updated resource for forensic examiners regarding the performance of individuals with intellectual disability on the Standardized Assessment of Miranda Abilities (SAMA). **Hypotheses:** We hypothesized that IQ, particularly verbal intelligence and working memory, would significantly predict abilities related to recall, vocabulary, knowledge, and acquiescence in a sample with intellectual disability. **Method:** Sixty-two individuals diagnosed with intellectual disability completed the Wechsler Adult Intelligence Scale—4th ed. (WAIS-IV), the SAMA, and a background questionnaire. **Results:** Participants demonstrated significantly worse Miranda abilities when compared to the normative sample of the SAMA apart from acquiescence, which they demonstrated at significantly higher rates. Participants exhibited limited existing knowledge of Miranda rights and showed minimal improvement following exposure to a Miranda warning. Verbal abilities were a significant predictor of recall and vocabulary abilities with large effect sizes on average (i.e., $d_s > 1$). IQ was not predictive of misconceptions about Miranda or acquiescence. **Conclusions: Verbal intelligence was an important contributor to understanding Miranda.** This study provided data related to performance on the SAMA by a sample of individuals with intellectual disability. It may serve as a reference for evaluators, legal professionals, and law enforcement officers when working with justice-involved persons with suspected intellectual disability.

