

Research Related to False Confessions

Coerced confessions, judicial instruction, and mock juror verdicts.

Kassin, Saul M..

Journal of Applied Social Psychology, Vol 11(6), Nov-Dec, 1981. Pp. 489-506.

Abstract:

Assessed whether judicial instruction can curb jurors' inappropriate use of coerced-confession evidence; 350 undergraduates participated. In Exp I, Ss read an auto theft trial in which the defendant had confessed on his own initiative (no constraint), after an offer of leniency (positive constraint), or after a threat of punishment (negative constraint). Ss then received an instruction that simply directed them to ignore a coerced confession (short form), another that additionally defined both positive and negative inducement as coercive and hence unreliable (long form), or no instruction at all. Ss fully discounted the negatively constrained confession, but not the positively induced one, which, although judged involuntary, produced a high percentage of guilty verdicts. In Exp II, Ss read an assault case involving a voluntary or positively coerced confession and 1 of 4 types of instruction. The positive coercion bias was replicated. An instruction that stressed both the unreliability and unfairness of an induced confession decreased voluntariness judgments but failed to lower the conviction rate. (27 ref)

Courts review participation of mentally disabled persons in criminal justice system.

No authorship indicated

Mental & Physical Disability Law Reporter, Vol 8(3), May-Jun, 1984. Pp. 289-290.

Abstract:

Four decisions discussed the capacity of mentally disabled persons to participate in the criminal court system: (1) Eddings v. Alabama, 443 So. 2d 1308 (Ala. Crim. App. 1983); (2) Louisiana v. Brown, 445 So. 2d 456 (La. Ct. App. 1984); (3) Pickens v. Alaska, 675 P.2d 665 (Alaska Ct. App. 1984); and (4) United States v. Gutman, 725 F.2d 417 (7th Cir. 1984). Specific issues include waivers of constitutional rights, voluntariness of confessions, and witness or victim submissions to psychiatric examinations.

Involuntary confessions based on mental impairments.

Parry, John.

Mental & Physical Disability Law Reporter, Vol 11(1), Jan-Feb, 1987. Pp. 2-6.

Abstract:

Discusses the US Supreme Court's ruling in Colorado v. Connelly, in which the issue of the voluntariness of a confession is severed from the question of the confessor's mental capacity. This ruling is contrasted with 3 previous Supreme Court decisions related to involuntary confessions: Blackburn v. Alabama, 361 U.S. 199 (1960); Townsend v. Sain, 372 U.S. 293 (1963); and Moran v. Burbine, 106 S. Ct. 1135 (U.S. Sup. Ct. 1986).

U.S. Supreme Court finds confession of severely mentally ill man voluntary.

No authorship indicated

Mental & Physical Disability Law Reporter, Vol 11(1), Jan-Feb, 1987. Pp. 19-21.

Abstract:

A divided Supreme Court found that a defendant's mental condition by itself does not determine whether a confession was coerced or a waiver of rights properly made under Miranda v. Arizona, 384 U.S. 436 (1966). Moreover, the state was only required to meet a preponderance-of-the-evidence standard in demonstrating that the defendant had waived his Miranda rights. Colorado v. Connelly, No. 85-660, 55 U.S.L.W. 4043 (U.S. Sup. Ct. Dec. 10, 1986).

Voluntariness of confessions assessed.

No authorship indicated

Mental & Physical Disability Law Reporter, Vol 11(2), Mar-Apr, 1987. Pp. 103-104.

Abstract:

The following 6 decisions considered the voluntariness of confessions made by criminal defendants with various mental impairments who claimed to lack the intellectual capacity to validly waive their constitutional rights: *Illinois v. Kokoraleis*, 501 N.E.2d 207 (Ill. App. Ct. 1986); *Reddix v. Thigpen*, 805 F.2d 506 (5th Cir. 1986); *Nebraska v. Dickson*, 395 N.W.2d 770 (Neb. Sup. Ct. 1986); *Watkins v. Alabama*, 497 So. 2d 1153 (Ala. Crim. App. 1986); *Sasser v. Alabama*, 497 So.2d 1131 (Ala. Crim. App. 1986); *Maine v. Addington*, 518 A.2d 449 (Me. Sup. Jud. Ct. 1986).

Colorado v. Connelly: Is free will no longer a criteria for the voluntariness of an accused's waiver and confession under Miranda?

Cheney, William G.

Law & Psychology Review, Vol 11, Spr 1987. Pp. 153-167.

Abstract:

Describes the evolution of the right against self-incrimination. It is concluded that in *Colorado v. Connelly*, the Court makes the 5th amendment right against self-incrimination and the Miranda warning useless for accused individuals whose mental incompetency prevents them from properly exercising their rights.

One hundred alleged false confession cases: Some normative data.

Gudjonsson, Gisli, British Journal of Clinical Psychology, Vol 29(2), May, 1990. Pp. 249-250.

Abstract:

Examined the psychological characteristics of individuals who retract self-incriminating admissions made during police interviewing by comparing 100 alleged false confessors with 104 other forensic referrals on 4 psychological variables. Measures used included the Wechsler Adult Intelligence Scale (WAIS) and the Gudjonsson Suggestibility Scale. The 2 groups differed significantly on tests of intelligence, suggestibility, compliance, and acquiescence. Normative data are provided.

The potential for bias in videotaped confessions.

Lassiter, G. Daniel, et.al.

Journal of Applied Social Psychology, Vol 22(23), Dec, 1992. Pp. 1838-1851.

Abstract:

Previous research by G. D. Lassiter and A. A. Irvine (see record 1986-24380-001) indicates that the point of view from which a confession is videotaped can influence determinations of its voluntariness. The present study, with 172 undergraduates, extended this finding. Ss completed the Need for Cognition Scale and then acted as jurors evaluating 1 of 3 mock interrogations. Confessor-focus, but not equal-focus (on the confessor and interrogator), videotapes produced judgments of greater voluntariness compared with more traditional audiotape and transcript formats. Also, this pattern generalized across confessions concerned with 3 different crimes (rape, drug trafficking, and burglary). Ss high and low in need for cognition were equally susceptible to the videotaped-confession bias. Biased voluntariness judgments may, in turn, prejudice likelihood-of-guilt assessments.

The psychology of confession evidence.

Kassin, Saul M., American Psychologist, Vol 52(3), Mar, 1997. Pp. 221-233.

Abstract:

Basic questions are raised concerning police interrogations, the risk of false confessions, and the impact that such evidence has on a jury. On the basis of available research, it was concluded that the criminal justice system currently does not afford adequate protection to innocent people branded as suspects and that there are serious dangers associated with confession evidence. The specific problems are threefold: (a) The police routinely use deception, trickery, and psychologically coercive methods of interrogation; (b) these methods may, at times, cause innocent people to confess to crimes they did not commit; and (c) when coerced self-incriminating statements are presented in the courtroom, juries do not sufficiently discount the evidence in reaching a verdict. It is argued that the topic of confession evidence has largely been overlooked by the scientific community and that further research is needed to build a useful empirical foundation.

Broadening the typology of false confessions.

McCann, Joseph T.

American Psychologist, Vol 53(3), Mar, 1998. Pp. 319-320.

Abstract:

Comments that S. M. Kassir's (see record 1997-07781-003) attempt to provide a theoretical framework for conceptualizing the various types of false confessions is of value to the clinician who is called on in applied settings to evaluate issues pertaining to the voluntariness of confession or related issues. An attempt is made to broaden this conceptual framework to include other coercive factors that may impact on a particular case, in order that research might begin to focus on additional variables so that the framework will have even broader practical utility.

Accountability and the camera perspective bias in videotaped confessions.

Lassiter, G. Daniel, et.al.

Analyses of Social Issues and Public Policy (ASAP), Vol 1(1), Dec, 2001. Pp. 53-70.

Abstract:

Prior research indicates that altering the perspective from which a videotaped confession is recorded influences assessments of the confession's voluntariness. The present study examined whether increasing decision makers' sense of accountability attenuates this biasing effect of camera perspective. Participants in a high-accountability (but not a low-accountability) condition were told that they would have to justify their judgments concerning the voluntary status of a videotaped confession to a trial judge. Although supplementary measures indicated that high-accountability participants processed information contained in the videotaped confession more carefully and thoroughly, the camera perspective bias persisted. This result adds to a growing body of work indicating that the criminal justice system needs to be seriously concerned with how it acquires and utilizes videotaped confession evidence.

Further evidence of a robust point-of-view bias in videotaped confessions.

Lassiter, G. Daniel, et.al.

Current Psychology: A Journal for Diverse Perspectives on Diverse Psychological Issues, Vol 21(3), Fal 2002. Pp. 265-288.

Abstract:

Four experiments with 539 undergraduates were conducted to test possible limits on the previously demonstrated point-of-view bias in videotaped confessions. Study 1 showed that deliberation did not eliminate the bias. Study 2 showed that forewarning did not eliminate the bias. Study 3 showed that directing greater attention to the content of the confession did not eliminate the bias. Study 4 showed that using a lengthier, case-based confession also did not eliminate the bias. Taken together, this research clearly indicates

that the legal system needs to be concerned with the potential for bias that exists in videotaped confessions.

Law enforcement perspectives on the use of trickery and deceit during the interrogation process.

Ruffin, James Leslie.

Dissertation Abstracts International Section A: Humanities and Social Sciences, Vol 63(1-A), Jul, 2002. Pp. 339.

Abstract:

The current research examined the law enforcement officer perspective regarding the use of deceit and trickery during criminal interviews and interrogations. There are currently varied debates on the appropriateness of these techniques and the impact on criminal suspects. Legal scholars allege that these techniques violate the protections conceived with Miranda. Psychologists suggest the techniques place a suspect in a vulnerable position, a position that may cause false confessions. The courts have provided little guidance, leaving officers free to explore the boundaries of acceptable methods. The present research targeted the law enforcement community of federal, state, and local officers using a combined methodology of survey research and in-depth interviews. Eight hundred forty surveys were distributed nationally to those officers who regularly conduct interviews, and in-depth interviews were conducted with 16 additional officers. The survey consisted of 21 questions and 9 additional questions for demographic and training information. The survey was designed to collect information about what perceptions officers have about their use of trickery and deceit in order to obtain confessions, to identify their perceptions about the use of trickery and deceit as its use applies to the Miranda warnings, and to determine whether officers perceive trickery and deceit as a tactic that removes voluntariness from Miranda waivers and confessions. Results substantiate that officers believe trickery and deceit are an appropriate tool for law enforcement and that the use of the technique does not negatively impact Miranda. Further, officers believe the techniques are ethical and professional, and that departments should not establish guidelines restricting their use. Lastly, although officers felt Miranda was still a viable tool for the protection of civil rights, individual officers or departments should not be held civilly liable for violations of Miranda. The implications of these findings are discussed in light of what is being argued by those in the legal and social science fields.

Videotaped interrogations and confessions: A simple change in camera perspective alters verdicts in simulated trials.

Lassiter, G. Daniel, et.al.

Journal of Applied Psychology, Vol 87(5), Oct, 2002. Pp. 867-874.

Abstract:

Prior research has indicated that altering the perspective from which a videotaped confession is recorded influences assessments of the confession's voluntariness. The authors examined whether this camera perspective bias persists in more ecologically valid contexts. In Study 1, neither a realistic videotaped trial simulation nor potentially corrective judicial instruction was sufficient to mitigate the prejudicial effect of camera perspective on mock jurors' assessments of voluntariness or on their all-important final verdicts. Study 2 suggests that perhaps the best camera perspective to use is one that focuses trial fact finders' attention on the interrogator, as this particular vantage point may facilitate decision makers' capacity to detect coercive influences, which in turn could, in some cases, improve assessments of the confession's reliability.

Individual differences and false confessions: A conceptual replication of Kassin and Kiechel.

Horselenberg, Robert, Merckelbach, Harald, Josephs, Sarah, Psychology, Crime & Law, Vol 9(1), Mar, 2003. Pp. 1-8.

Abstract:

In their study, S. M. Kassin and K. L. Kiechel (1996) falsely accused students of causing a computer crash and found that 69% of them were willing to sign a false confession, 28% internalized guilt, and 9% confabulated details to support their false beliefs. The authors interpreted these results to mean that false confessions can be easily elicited. However, in their study, false confessions were explicitly not associated with negative consequences. This study examined whether false incriminating evidence may elicit false confessions in 34 female undergraduates (aged 18-22 yrs) when such confessions are explicitly associated with financial loss. The authors also explored whether individual differences in compliance, suggestibility, fantasy-proneness, dissociation, and cognitive failures are related to false confessions. Methods were largely replicated from Kassin and Kiechel's study. Data indicate that the large majority of participants (82%) were willing to sign a false confession. In about half of the participants, false confessions were accompanied by internalization and confabulation. There was no evidence that individual differences modulate participants' susceptibility to false confessions. Taken together, this study replicates previous findings of Kassin and Kiechel.

The Psychology of Confessions: A Review of the Literature and Issues.

Kassin, Saul M., Gudjonsson, Gisli H., Psychological Science in the Public Interest, Vol 5(2), Nov, 2004. Special issue: The Psychology of Confessions: A Review of the Literature and Issues. Pp. 33-67.

Abstract:

Recently, in a number of high-profile cases, defendants who were prosecuted, convicted, and sentenced on the basis of false confessions have been exonerated through DNA evidence. As a historical matter, confession has played a prominent role in religion, in psychotherapy, and in criminal law-where it is a prosecutor's most potent weapon. In recent years, psychologists from the clinical, personality, developmental, cognitive, and social areas have brought their theories and research methods to bear on an analysis of confession evidence, how it is obtained, and what impact it has on judges, juries, and other people. Drawing on individual case studies, archival reports, correlational studies, and laboratory and field experiments, this monograph scrutinizes a sequence of events during which confessions may be obtained from criminal suspects and used as evidence. First, we examine the preinterrogation interview, a process by which police target potential suspects for interrogation by making demeanor-based judgments of whether they are being truthful. Second, we examine the Miranda warning and waiver, a process by which police apprise suspects of their constitutional rights to silence and to counsel. Third, we examine the modern police interrogation, a guilt-presumptive process of social influence during which trained police use strong, psychologically oriented techniques involving isolation, confrontation, and minimization of blame to elicit confessions. Fourth, we examine the confession itself, discussing theoretical perspectives and research on why people confess during interrogation. Fifth, we examine the consequences of confession evidence as evaluated by police and prosecutors, followed by judges and juries in court. Finally, we address the role of psychologists as expert witnesses and suggest a number of possible safeguards. In particular, we argue that there is a need to reform interrogation practices that increase the risk of false confessions and recommend a policy of mandatory videotaping of all interviews and interrogations.

On the Psychology of Confessions: Does Innocence Put Innocents at Risk?

Kassin, Saul M., *American Psychologist*, Vol 60(3), Apr, 2005. Pp. 215-228.

Abstract:

The Central Park jogger case and other recent exonerations highlight the problem of wrongful convictions, 15% to 25% of which have contained confessions in evidence. Recent research suggests that actual innocence does not protect people across a sequence of pivotal decisions: (a) In preinterrogation interviews, investigators commit false-positive errors, presuming innocent suspects guilty; (b) naively believing in the transparency of their innocence, innocent suspects waive their rights; (c) despite or because of their denials, innocent suspects elicit highly confrontational interrogations; (d) certain commonly used techniques lead suspects to confess to crimes they did not commit; and (e) police and others cannot distinguish between uncorroborated true and false confessions. It appears that innocence puts innocents at risk, that consideration should be given to reforming current practices, and that a policy of videotaping interrogations is a necessary means of protection.

Relationship between academic achievement and Miranda rights comprehension and false confessions.

Osman, Douglas A.

Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 66(3-B), 2005. Pp. 1731.

Abstract:

Courts ordinarily consider a waiver of Miranda rights valid if the defendant understands the nature of the rights and appreciates the consequences of waiving those rights and offers a confession free from police coercion. Today, juvenile offenders face longer sentences and harsher punishments. Research is needed to evaluate which factors courts should consider in determining the validity of a juvenile's waiver of rights and how these factors relate to Miranda comprehension and voluntariness of confessions. Previous research has found that age and IQ are significantly related to comprehension of Miranda rights in juveniles; however, research to date has not looked at the relationship between academic achievement and Miranda comprehension. The current research was conducted as part of a larger, ongoing study. For the current study, 73 male participants were assessed using the WASI, WIAT, and MRCI-II. This study hypothesized that academic achievement (composite scores from the WIAT), controlling for age and IQ, would predict Miranda comprehension and self-reported likelihood of offering a false confession. Multiple regression analyses failed to find significant relationships between academic achievement and overall Miranda comprehension, as well as self-reported likelihood of offering a false confession (as measured by the P-CHIP). Standard Language scores and two of the specific Miranda instruments were related, as were Listening Comprehension and FRI. Research and policy implications are discussed, and theories about the overall lack of significant findings are proposed.

Attributional Complexity and the Camera Perspective Bias in Videotaped Confessions.

Lassiter, G. Daniel, et.al.

Basic and Applied Social Psychology, Vol 27(1), Mar, 2005. Pp. 27-35.

Abstract:

Prior research has established that simply altering the perspective from which a videotaped confession is recorded influences judgments of the confession's voluntariness and the suspect's guilt. This study examined whether, when evaluating a videotaped confession, a higher degree of attributional complexity would buffer people from the contaminating effects of camera perspective. We found that although people high and low in attributional

complexity differed in their overall verdicts and voluntariness assessments, they were comparably swayed by the camera's perspective. That is, consistent with prior demonstrations of the camera perspective bias, the proportion of guilty verdicts and the proportion assessing the confession was voluntary were both significantly greater when the camera focused on the suspect rather than focused equally on the suspect and the interrogator. Theoretical and practical implications of these findings are discussed.

Suspect personality, police interrogations, and false confessions: Maybe it is not just the situation.

Forrest, Krista D., et.al.

Personality and Individual Differences, Vol 40(3), Feb, 2006. Pp. 621-628.

Abstract:

We empirically examined whether individual personality differences exist between people who falsely confess and internalize responsibility for an incident and those who do not. After completing personality inventories assessing authoritarianism, locus of control, interaction anxiousness, and fear of negative evaluation, as well as the Gudjonsson Suggestibility Scale (GSS 2), participants completed the Kassin and Kiechel (1996) computer paradigm for eliciting false confessions. Overall, 81.6% of the 98 participants confessed to and 59.2% internalized responsibility for the incident. Although none of the personality variables related to participant false confessions, locus of control, interaction anxiousness and authoritarianism all differed as a function of internalization.

Interrogations and Disputed Confessions: A Manual for Forensic Psychological Practice

Gregory DeClue (2005). Professional Resource Press, Sarasota, Florida.

The roles of interrogation, perception, and individual differences in producing compliant false confessions.

Blair, J. P.

Psychology, Crime & Law, Vol 13(2), Apr, 2007. Pp. 173-186.

Abstract:

This study utilized an experimental design to examine the amount of variance in false confessions that was explained by three types of variables. These variable sets were interrogation tactics, perceptions, and individual differences. The results indicated that interrogation tactics alone explained only a trivial amount of variance; whereas perceptions and individual differences each explained significant amounts of the variance in false confessions. The individual difference measure called interrogative compliance was found to be particularly important in explaining false confessions. Implications for theory are discussed.

Research and Expert Testimony on Interrogations and Confessions.

Costanzo, Mark, Leo, Richard A., Expert psychological testimony for the courts. Costanzo, Mark (Ed.); Krauss, Daniel (Ed.); Pezdek, Kathy (Ed.); pp. 69-98. Mahwah, NJ, US: Lawrence Erlbaum Associates Publishers, 2007. Vi, 321 pp.

Abstract:

Scholars have long pointed out the importance of interrogation and the potential for false confessions, but there have been at least two significant obstacles to empirical research in this important area. First, it is often difficult to know for certain whether a contested confession is truly false. Consequently, the development of DNA identification technology in the 1990s, and the resulting exoneration of innocent prisoners, provided a major boost to research on this topic by helping scholars identify scores of proven false confessions to serious crimes. A second obstacle has been the difficulty of studying false confessions in

the psychological laboratory. A realistic, convincing laboratory simulation of a police interrogation would require that the experimenter induce levels of stress in research participants that would violate ethical standards. Moreover, the crushing potential consequences of a false confession—a trial and possible prison sentence—cannot be fully simulated in the laboratory. We do not know—and it may be impossible to know—how many false confessions occur each year or what percentage of confessions are false. However, based on aggregated case studies by the Innocence Project and others, we do know that approximately 14% to 25% of known wrongful convictions appear to involve false confessions—that is, a false confession was the primary or sole evidence against the defendant. We also know that a confession has a powerful impact on the outcome of a case. In sum, all the available evidence indicates that a confession is extremely difficult for jurors to discount or ignore, even if that confession is false, even if it is coerced, and even when there is little corroborating evidence.

Effects of personality, interrogation techniques and plausibility in an experimental false confession paradigm.

Klaver, Jessica R., Lee, Zina, Rose, V. Gordon, *Legal and Criminological Psychology*, Vol 13(1), Feb, 2008. Pp. 71-88.

Abstract:

Purpose: The goal of the present study was to investigate the effects of personality variables, interrogation techniques and the plausibility level of an alleged transgression on the experimental elicitation of false confessions. **Methods:** Two hundred and nineteen undergraduate students assessed on measures of compliance, self-esteem, locus of control and interrogative suggestibility participated in the Kassin and Kiechel (1996) paradigm. Experimental manipulations included minimization and maximization interrogation techniques and high and low plausibility of the alleged typing mistake to examine rates of false confession and internalization. **Results:** The overall false confession and internalization rates across all conditions were 43 and 10%, respectively. An increased likelihood of false confession behaviour was associated with higher Shift scores on the Gudjonsson Suggestibility Scale, the use of minimization interrogation techniques and an increase in the plausibility of the allegation. Females were more likely to falsely confess than males in the high plausibility condition, whereas Caucasian and Asian participants were equally likely to falsely confess. Personality variables, such as compliance, most influenced the behaviour of males and Asians. **Conclusions:** The results of this study offer insight into false confession behaviour, suggesting that individuals who have a tendency to change their responses in the face of negative feedback may be more prone to false confession behaviour. The findings also serve to highlight the dangers of using minimization interrogation techniques and elucidate the limited generalizability of the paradigm to situations in which the alleged transgression is less plausible.

False confessions: Causes, consequences, and implications for reform.

Kassin, Saul M., *Current Directions in Psychological Science*, Vol 17(4), Aug, 2008. Pp. 249-253.

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.

Confession evidence: Commonsense myths and misconceptions.

Kassin, Saul M., *Criminal Justice and Behavior*, Vol 35(10), Oct, 2008. Pp. 1309-1322.

Abstract:

Confession evidence is powerful but flawed, often in nonintuitive ways. Contradicting widely held beliefs, research reviewed in this article suggests the following: Despite special training in how to conduct interviews, police cannot distinguish better than the layperson whether suspects are lying or telling the truth. Suspects in custody routinely waive their self-protective rights to silence and to counsel—especially if they are innocent. Certain legal but deceptive interrogation tactics increase the risk that innocents will confess to crimes they did not commit. Judges and juries are easily fooled, unable to distinguish between true and false confessions. Appellate courts cannot be expected to reasonably determine whether the error of admitting a coerced confession at trial was harmless or prejudicial.

Camera perspective bias in videotaped confessions: Evidence that visual attention is a

Ware, Lezlee J., et.al.

Journal of Experimental Psychology: Applied, Vol 14(2), Jun, 2008. Pp. 192-200.

Abstract:

Several experiments have demonstrated a camera perspective bias in evaluations of videotaped confessions: videotapes with the camera focused on the suspect lead to judgments of greater voluntariness than alternative presentation formats. The present research investigated potential mediators of this bias. Using eye tracking to measure visual attention, Experiment 1 replicated the bias and revealed that changes in camera perspective are accompanied by corresponding changes in duration of fixation on the suspect and interrogator. A path analysis indicated that visual attention partially mediated the bias, with at least one additional factor independently contributing to it. A proposed second factor was changes in available visual content that naturally coincide with alterations in camera perspective. Experiment 2 directly manipulated observers' focus and thus more conclusively established visual attention as one mediator of the camera perspective bias. Together the two experiments provide plausible evidence that differences in visual content may also mediate the bias.

Deception, coercion, and the limits of interrogation.

Appelbaum, Paul S..

Psychiatric Services, Vol 60(4), Apr, 2009. Pp. 422-424.

Abstract:

This column discusses the recent case of *U.S. v. Boskic* to highlight issues related to voluntariness—in particular, the voluntariness of a confession. At a meeting with U.S. government agents, Boskic, a Croat from Bosnia living in the United States, confessed to involvement in the 1995 Srebrenica massacre. The agents had deceived him about the meeting's purpose and did not disclose that they had a warrant for his arrest. The courts were asked to decide whether the confession was involuntary, and thus not admissible as evidence, on the basis of whether the deception was coercive.

Police-induced confessions: Risk factors and recommendations.

Kassin, Saul M., Drizin, Steven A., Grisso, Thomas, Gudjonsson, Gisli H., Leo, Richard A., Redlich, Allison D., *Law and Human Behavior*, Vol 34(1), Feb, 2010. Pp. 3-38.

Abstract:

Recent DNA exonerations have shed light on the problem that people sometimes confess to crimes they did not commit. Drawing on police practices, laws concerning the admissibility of confession evidence, core principles of psychology, and forensic studies involving multiple methodologies, this White Paper summarizes what is known about police-induced confessions. In this review, we identify suspect characteristics (e.g., adolescence; intellectual disability; mental illness; and certain personality traits), interrogation tactics (e.g., excessive interrogation time; presentations of false evidence; and minimization), and the phenomenology of innocence (e.g., the tendency to waive Miranda rights) that influence confessions as well as their effects on judges and juries. This article concludes with a strong recommendation for the mandatory electronic recording of interrogations and considers other possibilities for the reform of interrogation practices and the protection of vulnerable suspect populations.

Interrogative suggestibility: Life adversity, neuroticism, and compliance.

Drake, Kim E., *Personality and Individual Differences*, Vol 48(4), Mar, 2010. Pp. 493-498.

Abstract:

This study investigates the relationship between the number and intensity of negative life events experienced (nNLE and iNLE respectively), neuroticism (N), compliance (C), and interrogative suggestibility on the Gudjonsson Suggestibility Scale 1 (GSS 1). Participants (N = 127) completed the GSS1, the Life Events Questionnaire, and the NEO Personality Inventory-Revised. Results show that nNLE correlates significantly with both Yield 1 and Yield 2. Blended models including iNLE and N as independent variables, C as the mediator, and GSS scores as dependent variables provide the most acceptable accounts of GSS scores. The models demonstrate that: (i) the effects of iNLE, N and C on Yield 1 are not statistically significant, (ii) iNLE (but not N or C) exerts a significant and positive direct effect on Yield 2, and (iii) iNLE, N and C exert significant and positive direct effects on shift scores. Findings suggest that answer-shifting on the GSS may result from a negative mindset within interviewees, a desire to alleviate distress, and from compliant tendencies in response to feelings of uncertainty and expectations of success. They further imply that false confessions, in interviewees reporting iNLEs, could also result from compliance with interviewer-pressure or negative feedback during questioning.

Police Interrogations and False Confessions: Current Research, Practice, and Policy Recommendations (Decade of Behavior) [Book]

G. Daniel Lassiter (Editor), Christian A. Meissner (Editor) Series: Decade of Behavior, Publication Date: March 2010.

Book Description

Although it is generally believed that wrongful convictions based on false confessions are relatively rare the 1989 Central Park jogger wilding case being the most notorious example recent exonerations of the innocent through DNA testing are increasing at a rate that few in the criminal justice system might have speculated. Because of the growing realization of the false confession phenomenon, psychologists, sociologists, and legal/law-enforcement scholars and practitioners have begun to examine the factors embedded in American criminal investigations and interrogations that may lead innocent people to implicate themselves in crimes they did not commit. *Police Interrogations and False Confessions* brings together a group of renowned scholars and practitioners in the fields of social psychology, cognitive psychology, developmental psychology, criminology,

clinical-forensic psychology, and law to examine three salient dimensions of false confessions: interrogation tactics and the problem of false confessions; review of Supreme Court decisions regarding Miranda warnings and custodial interrogations; and new research on juvenile confessions and deception in interrogative interviews. Chapters include well-recognized programs of research on the topics of interrogative interviewing, false confessions, the detection of deception in forensic interviews, individual differences, and clinical-forensic evaluations. The book concludes with policy recommendations to attenuate the institutional and social psychological persistence (and pervasiveness) of the various inducements and impediments that have informed law enforcement's interrogation techniques and the types of false confessions they encourage.

False confessions, expert testimony, and admissibility.

Watson, Clarence, et.al.

Journal of the American Academy of Psychiatry and the Law, Vol 38(2), Jun, 2010. Pp. 174-186.

Abstract:

The confession of a criminal defendant serves as a prosecutor's most compelling piece of evidence during trial. Courts must preserve a defendant's constitutional right to a fair trial while upholding the judicial interests of presenting competent and reliable evidence to the jury. When a defendant seeks to challenge the validity of that confession through expert testimony, the prosecution often contests the admissibility of the expert's opinion. Depending on the content and methodology of the expert's opinion, testimony addressing the phenomenon of false confessions may or may not be admissible. This article outlines the scientific and epistemological bases of expert testimony on false confession, notes the obstacles facing its admissibility, and provides guidance to the expert in formulating opinions that will reach the judge or jury. We review the 2006 New Jersey Superior Court decision in *State of New Jersey v. George King* to illustrate what is involved in the admissibility of false-confession testimony and use the case as a starting point in developing a best-practice approach to working in this area.

Evaluations of competency to waive Miranda rights and coerced or false confessions: Common pitfalls in expert testimony.

Frumkin, I. Bruce

Police interrogations and false confessions: Current research, practice, and policy recommendations. Lassiter, G. Daniel, (Ed); Meissner, Christian A., (Ed); pp. 191-209; Washington, DC, US: American Psychological Association; 2010. Xviii, 250 pp.

Abstract:

A forensic psychological evaluation of a specific defendant can provide relevant data to the court regarding those psychological characteristics that heighten the risk of a false confession and impact the voluntariness of a confession or Miranda waiver. Also, an evaluation oriented toward a defendant's ability at the time of the police interrogation to understand and appreciate the Miranda warnings can assist the court in determining the competency of a defendant to have made a knowing and intelligent waiver of those rights. A number of evaluation protocols have been proposed in the literature for conducting such evaluations. There are many more similarities than differences in how these evaluations should be conducted. Yet, to date, there has not been a detailed analysis of the common errors or pitfalls psychologists make when conducting these evaluations and their subsequent testimony in court. This chapter is divided into five parts. It discusses psychologists' involvement in the evaluation of competency to waive Miranda rights and the use of the so-called Grisso tests. There is a discussion on evaluations relevant to issues of the voluntariness of a Miranda waiver and confession, the validity of a confession, and

in particular, the use of the Gudjonsson Suggestibility Scales (GSS). The chapter also discusses potential errors or pitfalls psychologists make when using and testifying about both the Grisso tests and the GSS, respectively. The chapter closes with a discussion of admissibility issues pertinent to expert testimony.

Police Interrogations and False Confessions: Current Research, Practice, and Policy Recommendations (Decade of Behavior) [Book]

G. Daniel Lassiter (Editor), Christian A. Meissner (Editor) Series: Decade of Behavior, Publication Date: March 2010.

Book Description

Although it is generally believed that wrongful convictions based on false confessions are relatively rare the 1989 Central Park jogger wilding case being the most notorious example recent exonerations of the innocent through DNA testing are increasing at a rate that few in the criminal justice system might have speculated. Because of the growing realization of the false confession phenomenon, psychologists, sociologists, and legal/law-enforcement scholars and practitioners have begun to examine the factors embedded in American criminal investigations and interrogations that may lead innocent people to implicate themselves in crimes they did not commit. Police Interrogations and False Confessions brings together a group of renowned scholars and practitioners in the fields of social psychology, cognitive psychology, developmental psychology, criminology, clinical-forensic psychology, and law to examine three salient dimensions of false confessions: interrogation tactics and the problem of false confessions; review of Supreme Court decisions regarding Miranda warnings and custodial interrogations; and new research on juvenile confessions and deception in interrogative interviews. Chapters include well-recognized programs of research on the topics of interrogative interviewing, false confessions, the detection of deception in forensic interviews, individual differences, and clinical-forensic evaluations. The book concludes with policy recommendations to attenuate the institutional and social psychological persistence (and pervasiveness) of the various inducements and impediments that have informed law enforcement s interrogation techniques and the types of false confessions they encourage.

Selling confession: Setting the stage with the “sympathetic detective with a time-limited offer”.

Davis, Deborah, Leo, Richard A., Follette, William C., Journal of Contemporary Criminal Justice, Vol 26(4), Nov, 2010. Pp. 441-457.

Abstract:

The effectiveness of an interrogation tactic dubbed the “sympathetic detective with a time limited offer” was tested. Participants read two versions of an interrogation transcript, with and without the tactic. Those who read the sympathetic detective version believed the detective had greater authority to determine whether and with what to charge the suspect, more beneficent intentions toward the suspect, and viewed confession as more wise. However, regression analyses indicated that for innocent suspects, only perceptions of the strength of evidence against the suspect and the detective’s beneficence and authority predicted the perceived wisdom of false confession. Interrogation tactics were generally effective, as indicated by participant recommendations of confession (vs. invoking Miranda, denial, or continuing to talk without admitting guilt) for both innocent (16.7%) and guilty (74.4%) suspects, and reasons offered for participants’ recommendations for confession versus other choices generally conformed to those reported by real-life confessors and interrogation scholars.

Formal assessment of voluntariness with a three-part consent process

Paul G Stiles, et.al.
Psychiatr Serv, 2011 Jan;62(1):87-9.

Abstract

Informed consent that is voluntary and made by an individual who is knowledgeable and competent is a foundational requirement for protecting human subjects from harm and exploitation that could result from research participation. In 1974 Miller and Willner proposed a two-part consent process that involved disclosure of information and assessment of comprehension. The authors propose a brief third component to the consent process: assessment of voluntariness. Three steps are involved: generate a list of potential coercive influences on the basis of the research population and the study context, develop a set of questions to assess the presence and intensity of the impact of these influences, and identify alternative courses of action should coercion be identified.

Inside interrogation: The lie, the bluff, and false confessions.

Perillo, Jennifer T., Kassin, Saul M., Law and Human Behavior, Vol 35(4), Aug, 2011. Pp. 327-337.

Abstract:

Using a less deceptive variant of the false evidence ploy, interrogators often use the bluff tactic, whereby they pretend to have evidence to be tested without further claiming that it necessarily implicates the suspect. Three experiments were conducted to assess the impact of the bluff on confession rates. Using the Kassin and Kiechel (Psychol Sci 7:125–128, 1996) computer crash paradigm, Experiment 1 indicated that bluffing increases false confessions comparable to the effect produced by the presentation of false evidence. Experiment 2 replicated the bluff effect and provided self-reports indicating that innocent participants saw the bluff as a promise of future exoneration which, paradoxically, made it easier to confess. Using a variant of the Russano et al. (Psychol Sci 16:481–486, 2005) cheating paradigm, Experiment 3 replicated the bluff effect on innocent suspects once again, though a ceiling effect was obtained in the guilty condition. Results suggest that the phenomenology of innocence can lead innocents to confess even in response to relatively benign interrogation tactics.

Conviction of the innocent: Lessons from psychological research.

Cutler, Brian L., (Ed.), Washington, DC, US: American Psychological Association, 2012. Xiv,

Abstract:

(from the publicity materials) Over the last several decades over 250 citizens convicted of major felonies were found innocent and were exonerated. Today, thanks to the work of psychologists and other criminal justice researchers, the psychological foundations that underlie conviction of the innocent are becoming clear. There is real hope that these findings can lead to positive reforms, reduce the risk of miscarriages of justice, and avoid the consequences of wrongful convictions to victims and society. In this book, editor Brian Cutler presents a state-of-the-field review of current psychological research on conviction of the innocent. Chapter authors investigate how the roles played by suspects, investigators, eyewitnesses, and trial witnesses and how pervasive systemic issues contribute to conspire to increase the risk of conviction of the innocent. The chapters skillfully examine psychological perspectives on such topics as police interrogations, confessions, eyewitness identification, trial procedures, juries, and forensic science, as well as broader issues such as racism and tunnel vision within the justice system. This comprehensive volume represents an important milestone for research on miscarriages of justice. By bringing psychological theories and research to bear on this social problem, the authors derive

compelling recommendations for future research and practical reform in police and legal procedures.

Harmless error analysis: How do judges respond to confession errors?

Wallace, D. Brian and Kassir, Saul M.

Law and Human Behavior, Vol 36(2), Apr, 2012. Pp. 151-157.

Abstract:

In *Arizona v. Fulminante* (1991), the U.S. Supreme Court opened the door for appellate judges to conduct a harmless error analysis of erroneously admitted, coerced confessions. In this study, 132 judges from three states read a murder case summary, evaluated the defendant's guilt, assessed the voluntariness of his confession, and responded to implicit and explicit measures of harmless error. Results indicated that judges found a high-pressure confession to be coerced and hence improperly admitted into evidence. As in studies with mock jurors, however, the improper confession significantly increased their conviction rate in the absence of other evidence. On the harmless error measures, judges successfully overruled the confession when required to do so, indicating that they are capable of this analysis.

An explanation for camera perspective bias in voluntariness judgment for video-recorded confession: Suggestion of cognitive frame.

Park, Kwangbai, et.al.

Law and Human Behavior, Vol 36(3), Jun, 2012. Pp. 184-194.

Abstract:

Three experiments were conducted to test the hypothesis that difference in voluntariness judgment for a custodial confession filmed in different camera focuses ('camera perspective bias') could occur because a particular camera focus conveys a suggestion of a particular cognitive frame. In Experiment 1, 146 juror eligible adults in Korea showed a camera perspective bias in voluntariness judgment with a simulated confession filmed with two cameras of different focuses, one on the suspect and the other on the detective. In Experiment 2, the same bias in voluntariness judgment emerged without cameras when the participants were cognitively framed, prior to listening to the audio track of the videos used in Experiment 1, by instructions to make either a voluntariness judgment for a confession or a coerciveness judgment for an interrogation. In Experiment 3, the camera perspective bias in voluntariness judgment disappeared when the participants viewing the video focused on the suspect were initially framed to make coerciveness judgment for the interrogation and the participants viewing the video focused on the detective were initially framed to make voluntariness judgment for the confession. The results in combination indicated that a particular camera focus may convey a suggestion of a particular cognitive frame in which a video-recorded confession/interrogation is initially represented. Some forensic and policy implications were discussed.

Conceptualizing defendants as minorities leads mock jurors to make biased evaluations in retracted confession cases.

Pickel, Kerri L., et.al.

Psychology, Public Policy, and Law, Vol 19(1), Feb, 2013. Pp. 56-69.

Abstract:

Criminal suspects who confess during interrogations sometimes retract their confessions and go to trial. Jurors must then evaluate the voluntariness and authenticity of the confession and determine guilt. Previous research indicates that focusing the camera on the detective and defendant equally (rather than on the defendant alone) while recording the interrogation protects defendants from a salience bias produced by the camera perspective.

We demonstrated that, even with an equal-focus video, a salience bias can occur if jurors conceptualize a defendant as a member of a minority group and therefore see the defendant as distinctive. In two experiments, mock jurors viewed an equal-focus confession video embedded within a murder trial. The defendant's physical appearance remained constant; however, when jurors believed he was a minority rather than a majority group member, they directed more visual attention toward him, rated his confession as more voluntary, authentic, and incriminating, and considered him more likely guilty. Contrary to our prediction, the defendant's minority status did not interact with his apparent motive (Experiment 1). However, the detective's use of a false evidence ploy during interrogation led jurors to evaluate the defendant less negatively on most measures (Experiment 2), although verdicts were unaffected.

Examining the judicial decision to substitute credibility instructions for expert testimony on confessions.

Gomes, Dayna M., et.al.

Legal and Criminological Psychology, Vol 21(2), Sep, 2016. Pp. 319-331.

Abstract:

Purpose: The present study tested the judicial decision to deny false confession expert testimony on the basis that jury instructions are sufficient to aid jurors in their determinations of disputed confession evidence.

Methods: Three groups of mock jurors (N = 150) were presented with a trial summary that included a videotaped re-enactment of an interrogation in which the interrogator used a maximization ploy. One group received expert testimony in the trial summary, another group received credibility instructions, and a control group received neither. All participants received standard reasonable doubt instructions at the end of the trial summary and then answered questions such as their verdict in the case, the defendant's likelihood of guilt, and the voluntariness of the defendant's confession.

Results: The results showed a high rate of conviction that was only reduced when participants received expert testimony. Across all measures, no significant differences were found between the control and credibility instruction groups.

Conclusions: The results suggest that credibility instructions are not comparable to expert testimony in influencing jurors' judgments of disputed confession evidence. These findings do not support the judicial decision to deny expert testimony on the basis that credibility instructions alone are sufficient to aid potential jurors in their evaluations of confession evidence. Avenues for future research on expert testimony and jury instructions in confession cases are discussed.

Can expert testimony sensitize jurors to coercive interrogation tactics?

Jones, Angela M. and Penrod, Steven.

Journal of Forensic Psychology Practice, Vol 16(5), Oct, 2016. Pp. 393-409.

Abstract:

Lay knowledge concerning false confession risk factors appears to be insufficient to safeguard against wrongful convictions, and research on false confession expert testimony has not led to a clear understanding of its impact on juror decision making. Thus, the current study sought to clarify whether expert testimony can induce sensitivity to a wide variety of false confession risk factors. Furthermore, jurors bring a variety of predispositions into the courtroom that may shape the way they view evidence. Yet, little research has evaluated the impact of individual differences in cases involving confession evidence. The current study assessed 330 participants' self-reported likelihood of falsely confessing. These participants subsequently read an abbreviated criminal trial transcript where the defendant

confessed to committing murder, but later recanted. We varied police use of four psychologically coercive interrogation techniques as well as the presence of expert testimony during the trial. Generally, participants were not sensitive to variations in the psychological coerciveness of the interrogation with or without an expert. However, self-reported likelihood of falsely confessing influenced perceptions of the detective and confession voluntariness, which in turn predicted verdict decisions. Increasing belief that one could falsely confess decreased the likelihood of conviction by decreasing perceptions of detective credibility and confession voluntariness. The results suggest the need to take into account individual differences of jurors who evaluate confession evidence. Current remedies may also need modification to assist jurors in deciphering confession evidence quality.

The interdependence of perceived confession voluntariness and case evidence.

Greenspan, Rachel and Scurich, Nicholas.

Law and Human Behavior, Vol 40(6), Dec, 2016. Pp. 650-659.

Abstract:

The current research investigated the mechanisms by which perceptions of confession evidence both influence and are influenced by perceptions of other case evidence using the theoretical framework of coherence-based reasoning (CBR). CBR posits that ambiguity and uncertainty are eschewed by artificially imposing consistency between pieces of evidence through bidirectional reasoning: Inferences about evidence lead to a preferred verdict, which in turn radiates backward to influence the perception of evidence. Two studies tested the CBR account with regard to confessions. An online sample of participants evaluated confession and nonconfession evidence at pretest and posttest. Study 1 revealed that, during pretest, participants (N = 119) deemed the evidence independent and nonprobative and the confession to be voluntary. However, at posttest, in the context of a criminal trial, participants considered the same evidence interrelated and highly inculpatory or exculpatory, depending on their verdict. Moreover, participants who voted to convict deemed the confession substantially voluntary, whereas participants who voted to acquit deemed it involuntary. Study 2 experimentally manipulated the strength of the nonconfession evidence in an effort to push participants (N = 127) toward a particular verdict. The same patterns of results emerged but were conditional on the strength of the nonconfession evidence: Strong case evidence caused the confession to be perceived as more voluntary, despite the fact that the confession was held constant. These findings replicate the coherence effect in a new domain and suggest that judges conducting harmless error analysis or making admissibility decisions might underappreciate the impact of confession evidence on jurors' verdicts.

Interrogation: a review of the science.

High-Value Detainee Interrogation Group

September 2016

- This report was reviewed by FBI, CIA, USD(I), DIA, USMC, and Army G2X. (p2)
- **Strategically introduce evidence or information.**
Without revealing the evidence or information, the interrogator asks the subject to provide a free narrative about a particular topic. He then asks the subject to repeat the same narrative and follows with specific questions in order to pin the subject down to his exact version of the event he is describing. Once such details are elicited, the interrogator introduces a piece of evidence or information (in terms of a vague source and low specificity) and asks the subject to explain it. The interrogator then introduces the evidence or information with a greater precision in terms of source and a higher degree of specificity,

and again asks the subject to explain it. The interrogation team makes notes of the subject's within-statement and between-statement inconsistencies. P.7

- **Recording the interview**

The number of American states requiring law enforcement officers to electronically record some or all interviews conducted with suspects in their custody has grown from two to at least 22 since 2003 [172]. On May 22, 2014, the U.S. Department of Justice announced a substantial change in its policy, creating a presumption that the FBI, Drug Enforcement Agency, Bureau of Alcohol, Tobacco, Firearms and Explosives, and United States Marshals Service will electronically record their custodial interviews [173].

Arguments in favor of this practice, which were made as early as the 1930s [174-177], have included the need for a good record of the proceedings [178-181], addressing disparities in perceptions or preconceived biases [178,182], including differences in how statements are interpreted [183]; deterring police misconduct; reducing the number and length of motions to suppress confessions; and ensuring that the essence of the Miranda warning was not eschewed when presented to suspects [178,184-187]. In addition, juries are increasingly finding it implausible that a video record was not easily accomplished and are inferring that the motivation for failing to record was to hide some aspect of the proceedings [178,181,188]. An important factor in favor of video or audio recording is that it relieves the interrogator from note taking, which is distracting [178,181], allows for others to review the interrogation [178,179], and can be used to provide a transcript of the proceedings.

There is no evidence that video or audio recording affects cooperation or confessions [189], and police agencies that have implemented video recording of interrogations have reported the change as positive in almost all instances [179,190]. (p.32)

Knowingly but naively: The overpowering influence of innocence on interrogation rights decision-making.

Scherr, Kyle C., et al.

Law and Human Behavior, Vol 42(1), Feb, 2018. pp. 26-36.

Abstract (English):

Most suspects waive the guaranteed protections that interrogation rights afford them against police intimidation. One factor thought to motivate suspects' inclination to waive their rights stems from the acquiescence bias whereby suspects mindlessly comply with interrogators' requests. However, research bearing on the phenomenology of innocence has demonstrated the power of innocents' mindset, which could motivate some innocent suspects to waive their rights knowingly (instead of mindlessly complying). To test these ideas, participants (N = 178) were (a) rightfully (guilty) or wrongfully (innocent) accused of wrongdoing during an experimental session, (b) administered 1 of 2 forms that by signing either waived or invoked their rights to a student advocate, and (c) given questions to assess their degree of knowing during the decision-making process (i.e., extent to which individuals were cognizant of their decisions). Results demonstrated that unknowing innocent and guilty individuals tended to passively comply, engaging in a pre-interrogation acquiescence bias by signing waive and invoke forms at similar rates. But, as participants became more cognizant of their decisions, they acquiesced at lower rates and their change from acquiescence differed depending on their status. As innocents became more cognizant, they signed the waiver form at higher rates than the invoke form, thereby demonstrating that innocence can motivate some suspects to knowingly forgo their rights. Conversely, as guilty individuals became more cognizant, they signed the invoke form at

higher rates than the waiver form. These findings have implications for reforming pre-interrogation protocols, protecting suspects' civil liberties, and preventing innocents from offering false self-incriminating evidence.

Research-based instructions induce sensitivity to confession evidence.

Jones, Angela M. and Penrod, Steven.

Psychiatry, Psychology and Law, Vol 25(2), Apr, 2018. Pp. 257-272.

Abstract:

Evidence is mixed on whether or not laypersons have sufficient knowledge of false confession risk factors. Procedural safeguards such as judicial instructions may assist jurors who are unable to effectively evaluate confession evidence. Participants were randomly assigned to one of five conditions that varied in the quality of a confession and the presence of instructions on coercive interrogation techniques. The results indicate that instructions induce sensitivity by altering verdict decisions and perceptions of evidence strength and confession voluntariness in line with the quality of the interrogation. Furthermore, the presence of instructions in low-quality interrogations resulted in participants completely discounting the confession. These findings suggest that research-based instructions on coercive interrogation techniques may be an effective safeguard against the use of potentially unreliable confession evidence.

The Cutting Edge of Confession Evidence: Redefining Coercion and Reforming Police Interrogation Techniques in the American Criminal Justice System

Dylan J. French (2019). Texas Law Review, Vol. 97:1031-1060

Abstract

The American criminal justice system is at a tipping point. The Reid accusatory model of interrogation, which has for decades defined interrogation in the United States, is struggling to hold back a growing body of literature in the social sciences condemning such techniques and advocating for reform. While social scientists have for years criticized accusatory interrogation techniques by showing how certain techniques unnecessarily increase the risk of false confessions, this criticism has only led to marginal change. Accusatory interrogation techniques still exist within law enforcement, and courts continue to admit confessions elicited using these techniques.

Unlike previous articles on confession evidence, this Note is not a critique of the totality-of-the-circumstances test or an analysis of the current state of voluntariness law. Rather, this Note analyzes the disconnect between the courts and the social sciences, focusing on how the courts' outdated understanding of coercion has impacted the evaluation of confession evidence and fueled the continued existence of the Reid accusatory model of interrogation. Recognizing this disconnect, the Note maps out three paths away from the accusatory interrogation techniques of the past, toward a new understanding of coercion and a reformed, more reliable system of interrogation in the American criminal justice system.

"2. Videotaping Should Be Required for All Custodial Interrogations.

Videotaping is one of the least controversial reforms; its benefits are numerous and well-documented. For instance, videotaping creates a record of the proceedings that can be used to address disparities in perceptions or preconceived biases as well as differences in how statements are interpreted. It deters police misconduct and assures that Miranda warnings were properly presented to suspects. And it reduces the number and length of motions to suppress, thereby decreasing congestion in the courts. In short, "[r]ecording an interrogation is the most accurate means of preserving what happened in an

interrogation room” While twenty-five states and D.C. currently require custodial interviews to be videotaped, and over one thousand jurisdictions have voluntarily implemented videotaping policies, a significant portion of the United States still needs to follow suit.” (p.1056)

1. *False Evidence Has No Place in the Interrogation Room.*

Research in the social sciences has demonstrated how deceptive police tactics cause false confessions. Nonetheless, suggestions that police should be limited in their use of such tactics draw fierce resistance. The strongest opposition comes from law enforcement officials, arguing that “lying is sometimes a necessary evil, effective, and without risk to the innocent.” While a per se rule against all use of police trickery and deception may be desirable, such a rule would likely be unworkable given the pervasiveness of such tactics and the inevitability of some trickery and deceit inherent in any accusatory model of interrogation. A more reasonable reform would be to specifically bar the use of false evidence. While this suggestion would still face some resistance from law enforcement, it strikes a more reasonable balance between preserving society’s interest in exposing criminals and protecting the individual’s interest in being free from unduly coercive interrogation tactics.

This reform would bar police from both misrepresenting the existence of evidence and confronting the suspect with fabricated evidence—two ploys proven to increase the risk of false confessions. would prohibit falsely telling suspects such as Martin Tankleff that their father had awakened at the hospital and identified them as the attacker, or an investigator telling a suspect that the police had a “Neutron Proton Negligence Intelligence Test” that could prove they fired the murder weapon. It would prevent the police from confronting a suspect with fabricated visual props, such as a thick case file full of empty pages, videotapes, or fingerprint cards. And it would put an end to the common ploy of confronting a suspect with falsified results from a polygraph or DNA test.

(p.1057-1058)

**204. Saul M.Kassin et al., Police-Induced Confessions: Risk Factors and Recommendations, 34 LAW & HUM. BEHAV. 3, 30 (2010). At 28, “From a convergence of three sources, there is strong support for the proposition that outright lies can put innocents at risk to confess by leading them to feel trapped by the inevitability of evidence against them.”*

False confessions predict a delay between release from incarceration and official exoneration.

Scherr, Kyle C. and Normile, Christopher J.

Law and Human Behavior, Vol 46(1), Feb, 2022. pp. 67-80.

Abstract (English):

Objectives: Little empirical research has examined postconviction processes associated with the unique legal events of release from incarceration and official exoneration. Across various models, we tested the influence of risk factors associated with wrongful convictions (false confessions, faulty or misleading forensic evidence, inadequate legal defense, mistaken eyewitness identifications, official misconduct, and perjury) and relevant alternative factors (e.g., presence of DNA, false guilty pleas, and race) on the exoneration process, with a particular focus on the role of false confessions. Hypotheses: We expected that all risk factors would be meaningfully associated with the duration between wrongful conviction and release but that false confessions would be associated with longer delays between release and exoneration and would remain a meaningful predictor of the delay even when accounting for alternative factors. Method: Using data from documented exonerations of murder, attempted murder, and accessory to murder in the National Registry of Exonerations (N = 1,074), we examined the association of risk factors and alternative predictors with the time between exonerees’ wrongful conviction and release from incarceration and the time between release from incarceration and official exoneration. Results: Overall, five of the six risk factors predicted the time between

wrongful conviction and release from incarceration, but of the risk factors, only false confessions predicted the time between release and exoneration ($d = 0.28$; 95% CI [0.13, 0.43]), even when we controlled for relevant alternative factors ($d = 0.29$; 95% CI [0.14, 0.43]). Conclusions: Exonerations that involve false confessions are associated with delays in the critical window between innocent people's release and official exoneration—a time during which these innocent people are precluded from accessing reintegration aids and may struggle to find housing and employment.