False Confessions: What Every Attorney Should Know

Dr. Paul Simpson, Forensic Psychologist, (520) 355-1000
doc@psy.law / www.psy.law

Introduction to False Confessions

Introduction…..…….…..…… p. 2
A Brief History of Modern Police Interviewing……..……..……. p. 5
Classifying False Confessions……..……...……..……. p. 7
Three Bites of the Apple……...……...……..……. p. 8
Research Related to False Confessions……...……..……. p. 9

Models of Interrogation and Interview

The Interrogation Model (Reid Technique)…..……..…… p. 27
Research on the Reid Technique.……..……. p. 35
Deceptive Use of False Evidence……..……. p. 44
Selling Confession…….……..……... p. 46
Confirmation Bias……..……..…..…… p. 48
Claims of Lie Detection……...……..…….. p. 50
Pretext Phone Call…….……...…..……... p. 51
Investigative Interviewing (The PEACE Model)...…….……... p. 53
Research Abstracts on Investigative Interviewing..……..……. p. 57
Research Abstracts on the PEACE Technique…...……..……. p. 102
Persuasive vs. Investigative Techniques……....…….……... p. 108

In the Courtroom

Voluntariness Doctrine……...…… p. 112
Confessions and Jury Reactions……. p. 118
Videotaping Confessions…….……... p. 119
Example of a Pretrial Motion……..…… p. 122
Example of Crossing the Investigator……...…..…….....……. p. 136
False Confession Testimony...……...…..….. p. 137
Legal Cases…….……...……. p. 153

Memory and False Confessions

Creating False Memories for Crimes...…...…… p. 158
Alcohol and Confessions……...……. p. 164
Alcohol and Memory for Crimes…….……... p. 166
Anger and Memory……l..……..…… p. 173

Intellect and False Confessions

Autism and False Confessions.……...…… p. 176
Intellectual Disability and False Confessions……. p. 181

Suggestibly

Confessions and Suggestibility……...…… p. 185
Gudjonsson Suggestibility Scales..……. p. 190
Personality Assessment Inventory.....…….……... p. 200

About Dr. Simpson……...……...……. p. 202

False Confessions: What Every Attorney Should Know

WHAT: This document is a compilation of topics related to the phenomenon of false confessions. The material is separated into sections that are "*free-standing*", meaning the reader can go to topics that are of most interest. Because of this format, some material is repeated in different sections.

WHO: Dr. Paul Simpson is a criminal forensic psychologist with almost 4 decades of courtroom experience. He has specialties in suggestibility and memory, and authored a book in 1997 titled "*Second Thoughts: Understanding the False Memory Crisis*".

WHO: The intended audience . . .
This resource was created in an effort to better equip defense attorneys to provide the best defense for their clients. But it is also written for prosecutors to better understand the standards of care that need to be met and identify potentially untruthful confessions.

WHEN:
The document you are reading was first drafted in January 2022. You'll notice the date is placed at the bottom of each page. However, the material is designed to be regularly updated. Be sure to go to ArizonaForensics.com to see this same resource formatted for the website.

- Introduction
- A Brief History of Modern Police Interviewing
- Classifying False Confessions
- Three Bites of the Apple
- Research Related to False Confessions

Introduction

The U.S. Supreme Court has noted, quoting Justice White's dissent in Bruton v. United States:

> A confession is like no other evidence. Indeed, "*the defendant's own confession is probably the most probative and damaging evidence that can be admitted against him. . . .[T]he admissions of a defendant come from the actor himself, the most knowledgeable and unimpeachable source of information about his past conduct. Certainly, confessions have profound impact on the jury, so much so that we may justifiably doubt its ability to put them out of mind even if told to do so*" [Ref. 31, p 296].

- Research consistently shows that confessions have a greater impact on jury decisions then do witness statements, or even hard evidence (e.g. Appleby et al., 2013, Kassin & Neumann, 1997). (p.187)
- Drawing on a sample of 496 Canadians convicted of a sentence of 2 years or more for a sexual offense (typically a sexual assault), St-Yves (2002) observed that confessing during a police interrogation was more likely among suspects who were Caucasian, single, had a higher IQ, expressed feelings of guilt, had a dependent personality, and had sexually, but nonviolently victimized a (young) male victim. (p.198)
- . . . it was found that perpetrators with a criminal history of mainly sex offenses, who are younger (≤40.5 years old), and who committed their crime during the day showed the highest likelihood of confessing during police interrogations (68%). Although individuals with a versatile criminal history (i.e., having prior convictions mainly for nonsexual crimes) were generally less likely to confess (35%), those who targeted an unknown victim that was not from a vulnerable and criminogenic environment (i.e., dysfunctional background, involved in prostitution activities, alcohol and/or drug abuse) still showed a reasonably high likelihood of confessing (54%). (pp.198-199)

Criminal Investigations of Sexual Offenses (1st ed. 2021). Editors Nadine Deslauriers-Varin and Craig Bennell,

But the problem arises when innocent suspects provide incriminating statements to investigators.

> *"Gone are the days when the police would shine bright lights on the suspects, grill them for 24 hours at a time, or beaten with rubber hose, but observational studies shown that the use of physical force is given way to more psychologically oriented techniques, such as feigned sympathy and friendship, appeals to God and religion, the use of informants, the presentation of false evidence, and other forms of trickery and deception."* (Confessions in the Courtroom, Saul Kassin, 1993)

The phenomenon of false confessions is a profound problem within the American legal system.

- As of January 2020, the Innocence Project has documented over 375 DNA exonerations in the United States. Although these individuals were innocent of these crimes, (https://innocenceproject.org/research-resources/)
  - 29%: Involved false confessions
  - 44 of 375 (12%) pled guilty to crimes they did not commit
  - At least 43 (52%) of the 83 DNA exonerees who falsely confessed included non-public facts in their confessions [as of July 29, 2020]
  - 23 (22%) of the 104 people whose cases involved false confessions had exculpatory DNA evidence available at the time of trial but were still wrongfully convicted [as of July 29, 2020]
  - 83 (61%) of the 137 DNA exonerees who were wrongfully convicted for murder had false confessions involved in their cases (33 confessed themselves, 20 had co-defendants who confessed, and another 30 confessed themselves and had co-defendants who confessed) [as of July 29, 2020]
  - 69%: Involved eyewitness misidentification and of these:
    - 84% of the misidentification cases involved a misidentification by a surviving victim
    - 42% involved a cross-racial misidentification

    https://innocenceproject.org/dna-exonerations-in-the-united-states/ [as of 12/29/2021]

- Bedau and Radelet identified 350 wrongful convictions in capital and potential capital cases between 1900 and 1985 and found that 49 of them were caused by false confessions.
- Gross and colleagues examined 340 exonerations in the United States from 1989 through 2003, of which 144 were cleared by DNA evidence and found that 15 percent of these individuals had falsely confessed. That study further indicated that 69 percent of the innocent confessors were either mentally ill or mentally retarded.
- In 2000, Scheck and collaborators analyzed 62 cases of wrongfully convicted individuals who had been exonerated by DNA evidence and found that approximately 24 percent involved false confessions.
- A 2008 empirical study found that 16 percent of the first 200 individuals exonerated by postconviction DNA testing in the United States had false confessions introduced during their trials.

Scientific research reveals the phenomenon of false confessions is driven by a combination of interrogator-suspect interactions and a suspect's psychological make-up. Despite advances in our understanding, the occurrence of false confessions is counterintuitive to the average juror. In instances of suspected false confession, it is critical that the defense attorney provides expert testimony to better educate the trier-of-fact and challenge the powerful implication of guilt that a confession suggests. In various jurisdictions, the defense is allowed to proffer expert testimony to educate the trier-of-fact regarding how aggressive interview techniques and/or the accused's

psychological characteristics can lead to a possible false confession. But the expert's testimony must be based on clinically-based opinion and related to the specific confession in your case.

Data Sources for Research on Exonerations

- The *National Registry of Exonerations* (NRE) is a public database that records all exonerations in the United States since 1989, including cases in which DNA played a limited or no role in the exoneration. In January 2020, the NRE database contained more than 2,500 cases. Their website is well suited to sorting and subsetting cases, and it provides graphic displays of case variables, including crime details and factors contributing to wrongful conviction. The site also has reports on special topics. Spreadsheets of the data are available upon request.
- *Convicting the Innocent* is a public database developed in conjunction with Brandon Garrett, the author of the book Convicting the Innocent, an analysis of the first 250 DNA exonerations in the U.S. This database is limited to DNA exonerations and is updated annually. In January 2020 it included 367 cases. It has search capabilities and includes trial transcript excerpts and other source documents, as well as citations to judicial opinions.
- *The Innocence Record*, a collaboration between the Innocence Project and Winston & Strawn, LLP, is an online repository of available case documentation from DNA exonerations nationwide. It provides searchable case summaries and a digital archive of underlying documents, including police and laboratory reports, trial transcripts and post-conviction motions and pleadings. Researchers may apply for full access to this resource by completing and submitting an online application.

A Brief History of Modern Police Interviewing

A review of the scientific literature highlights three major waves of research on confessions to date. In the first wave of literature, which was more theoretical in nature, researchers mainly focused on explaining why someone would confess or admit to a crime they have committed and various explanatory models were proposed. Falling within the psychoanalytic theories of personality, some authors proposed that confessions are the result of internal conflicts (e.g., guilt; Berggren, 1975; Horowitz, 1956; Reik, 1959). Other authors resorted to the principles of rational choice (Hilgendorf & Irving, 1981; Jayne, 1986), suggesting that a confession results from a cost-benefit analysis. Finally, some researchers in this first wave stressed the importance of considering emotional, criminogenic, crime-related, and situational factors in a suspect's decision to confess, as these factors can help explain how guilt and shame, the relationship between the interrogator and the suspect, and the interviewing techniques used can persuade suspects to confess without altering the perceived harms and benefits of confession (Gudjonsson, 1992, 2003).

As mentioned by Beauregard et al. (2010), although the models offered in this literature differ in some respects, they all tend to consider some central concerns: (1) the resistance and deception of the suspect and the need to use psychological manipulation to overcome these behaviors; (2) factors influencing the suspect's decision-making during the interview; (3) the suspect's internal conflicts (i.e., guilt); (4) the interactions between suspect characteristics and the crime committed, and; (5) the events preceding the interrogation and their perceived consequences. In sum, these theoretical models suggest that individual characteristics (e.g., age, social capital), the criminal background, and the context of the interview (e.g., presence of guilt, length and conditions under which the interrogation is undertaken, attitude and behaviors of the police interrogator) could all play a role in the offender's decision to confess during a police interrogation.

In the second wave of literature, which was published in the 1990s and 2000s, researchers focused on empirically validating the explanations and motivations put forward in these theoretical models. Across various studies on the topic, research has shown that confessions are indeed significantly associated with several individual, crime-related, and situational/contextual factors, including the age of the suspect (e.g., Pearse et al., 1998; Viljoen et al., 2005), parental and marital status (e.g., Deslauriers-Varin et al., 2011a; Gudjonsson, 2003), the type of crime committed and its severity (e.g., Deslauriers-Varin et al., 2011a; Phillips & Brown, 1998; Sigurdsson & Gudjonsson, 1994), the offender's criminal background (e.g., Pearse et al., 1998; Snook et al., 2015), the level of intoxication at the time of the crime and during the interrogation (e.g., Pearse et al., 1998; Sigurdsson & Gudjonsson, 1994), feelings of guilt and remorse (e.g., Gudjonsson & Sigurdsson, 1999; Gudjonsson et al., 2004), the suspect's personality profile (e.g., introverted/extroverted; Gudjonsson & Petursson, 1991; St-Yves, 2002), the use or non-use of a lawyer and legal advice (e.g., Leo, 1996; Moston et al., 1992; Snook et al., 2015; Stephenson & Moston, 1994), and the (perceived) quality of the evidence held by the police (e.g., Deslauriers-Varin et al., 2011a; Gudjonsson & Petursson, 1991; Moston et al., 1992; Phillips & Brown, 1998). Although studies examining these factors sometimes present contradictory results, it is possible to suggest a profile of the individual who is more likely to confess. They are: younger, more vulnerable and prone to social desirability, without children, neither married nor in a stable relationship, without a criminal background, suspected of committing a less serious crime, guilt-ridden about their actions, under the influence of alcohol or other substances, without the aid of legal advice, and facing strong evidence. Moreover, results from these previous studies show that contextual factors (e.g., techniques used, strength of evidence, context in which the interview is conducted) are particularly important predictors of a suspect's decision to confess (e.g., Deslauriers-Varin et al., 2011a, 2011b; Moston et al., 1992; for a review, see Deslauriers-Varin et al., 2020).

. . . it is not surprising that the third wave of research, which took place over the last decade, largely focused on further analyzing the influence of situational and contextual factors, particularly the

effect of interrogation techniques and the relational context in which interrogations take place. Much of this research has examined the role of evidence strength (e.g., Brimbal & Luke, 2019; Deslauriers-Varin et al., 2011a, 2020; Moston & Engelberg, 2011) and the way in which evidence is presented (e.g., strategic use of evidence; Clemens et al., 2020; Granhag et al., 2013). Studies from this third wave have also focused on the role of police investigators and investigative techniques, and highlight that suspects are more likely to confess, cooperate with the police, and provide valid (incriminating) information when the interrogation is conducted in a respectful, openminded, and empathetic relational context (e.g., May et al., 2017; St-Yves & Meissner, 2014; Snook et al., 2015; Wachi et al., 2014), rather than a context defined by dominance, humiliation, and confrontation (e.g., Alison et al., 2013). More specifically, the use of techniques that promote the development of a trusting relationship between the investigator and the suspect (e.g., open-ended questions, demonstrations of empathy), rather than coercive and adversarial techniques (e.g., repetitive and negative questions, maximization), is more effective for getting the suspect to cooperate (e.g., a confession) and to obtain incriminating or contributing information (Goodman-Delahunty & Martschuk, 2020; Meissner et al., 2014; Soukara et al., 2009).

When all the factors from this third wave of research are put together, the most effective techniques to encourage suspect cooperation in an interrogation context can be highlighted. May et al. (2017) showed that the most effective interrogation technique requires more than the simple strategic use of evidence. They state that the interviewer needs to elicit and present statement-evidence inconsistencies in a non-judgmental manner. In fact, it is quite clear that, beyond the strategic use of evidence, the way to address and discuss the alleged offense seems highly important and that direct accusations toward the suspect prompts suspect denials and decreases the level of investigation-relevant information that can be extracted (Adams-Quackenbush et al., 2019). A more recent study conducted by Brimbal and her colleagues (2019) also showed that the efforts to build rapport help establish a cooperative state for the interview, which is necessary to motivate individuals to provide (more) information. The authors, however, highlight limits of using this technique in cases where the suspect is protecting someone; as the more sympathy a suspect feels toward a person, the less information they will likely be willing to provide to investigators.

In the third wave of research, researchers have also analyzed the influence of the physical environment on the decision to confess. The results of this research show that a decorated, non-coercive environment in which the individual feels comfortable promotes disclosure, cooperation, and the gathering of reliable information (Goodman-Delahunty & Martschuk, 2020; Hoogesteyn et al., 2018, 2020). The attitude of the police interrogator, the relationship between the suspect and the interrogator, and the environment in which the interrogation takes place would therefore all be important for the proper conduct of an investigative interview with suspects (and likely be predictive of the outcome).

The Psychology of Confessions: A Review of the Literature and Issues
Saul M Kassin and Gisli H Gudjonsson
Psychol Sci Public Interest. 2004 Nov;5(2):33-67.

Classifying False Confessions

The custodial interrogation process is inherently coercive and designed to produce a confession. We do not take the position that all confessions are the product of coercion or that anyone who confesses is mentally disturbed. Yet, criminal defendants' claims of false confessions are, by nature, counterintuitive. That is, a judge or jury must consider the strange occurrence of an individual's having made a statement against liberty interest. Despite this apparent oddity, the literature supports not only the existence of the false confession phenomenon, but identifies a confluence of factors that may produce them. For a variety of reasons, ranging from police coercion to a guilt-ridden mind to mental illness or retardation, false or unreliable confessions find their way into criminal cases.

Kassin and Keichel categorized false confessions into three types: voluntary, coerced-compliant, and coerced-internalized.

- *Voluntary false* confessions come about in the absence of overwhelming external stressors by law enforcement. Instead, observes Gudjonsson, an individual may be seeking notoriety, may have guilty feelings about some other transgression, may have an inability to distinguish reality from fantasy, or may be attempting to protect another person.
- *Coerced-compliant* false confessions are offered in an attempt to avoid external pressure or to obtain a reward. However, within this framework, the confessor subjectively does not accept the confession as true.
- *Coerced-internalized* false confessions involve an innocent person who, because of confusion and the stress of the interrogation, begins to accept criminal responsibility.

Ofshe and Leo propose that the improper use of interrogation techniques can result in four types of false confessions:

- *Stress-compliant*, in which the suspect is overwhelmed by the anxiety of the situation, is physically exhausted, or both, and confesses to bring an end to the stress.
- *Coerced-compliant*, in which the suspect responds to overt or covert threats of harm, to promises of leniency, or to both, believing that by confessing, punishment will be reduced or eliminated.
- *Persuaded false-noncoerced and -coerced*, in which the suspect is persuaded by the interrogator of the probability of guilt, even though the suspect has no memory of the crime. The distinction between the noncoerced and coerced types is the extent to which threats, promises, or other coercive techniques are used.

To bridge the cognitive dissonance of guilt in the face of amnesia, interrogators supply theories such as alcohol-or drug-induced blackout, momentary lapse in consciousness, a repressed memory, or multiple personality. Ofshe and Leo also illustrate multiple dynamics by which skilled interrogators obtain confessions from innocent suspects-for example, the rhetorical minimization of the recited Miranda warnings, which can induce hopelessness; interpreting the suspect's demeanor ("*I'm a human lie detector*"); and fabricating eyewitness corroboration, co-perpetrator confession, or scientific evidence (polygraphy, fingerprints, DNA). From the suspect's side, a variety of mental conditions may contribute to the susceptibility to confessing falsely or to confessing without full understanding of the waiver of rights. These conditions include mental illness (e.g., psychosis, depression), mental retardation, and drug intoxication or withdrawal.

False Confessions, Expert Testimony, and Admissibility.
Watson et al. 2010. The Journal of the American Academy of Psychiatry and the Law, pp. 178-179.

Three Bites of the Apple

A defendant may challenge the reliability of the statement during both the pretrial and trial phases of the criminal matter, as well as in a postconviction relief application. The ability to make such challenges, of course, would be waived by the defendant in the event of a plea agreement, the most prevalent of outcomes. The following discussion suggests uses of expert testimony in cases in which a false-confession claim is made.

First Bite: Pretrial

During the pretrial phase, a motion to suppress the confession may be initiated by the defense to prevent it from reaching the jury at trial. Such a motion is supported by the defendant's constitutional right to a judicial determination of the voluntariness of the confession. In response to this motion, a judicial hearing is held to determine, in light of the totality of the circumstances, whether the statement was voluntary. If the judge determines that the preponderance of the evidence supports a finding of voluntariness, then the defendant's motion is denied, and the confession is admissible at the trial phase. The importance of the false-confession phenomenon becomes magnified when the confession is the key evidence in the prosecution. It comes as no surprise, then, that expert testimony regarding the defendant's cognitive, emotional, or motivational state may come into play. In our experience, judges in evidence-suppression (Miranda) hearings are reluctant to rule on the reliability of alleged false confessions; the decision is relegated to the jury. Beyond that is the question of what kinds of expert testimony might be helpful to the jury without prejudicing them or invading their domain.

Second Bite: Trial

Notwithstanding the pretrial judicial determination permitting the jury to hear the confession, the defendant may still challenge its reliability through expert testimony at trial (there is no second bite if a jury trial is waived). Under such circumstances, the prosecution customarily presents a motion to exclude the defense expert's testimony. The trial judge, guided by the applicable admissibility standards for scientific expert testimony, then determines whether the expert's testimony is admissible. If the judge find that the expert's testimony is inadmissible, the jury must weigh the incriminating statement without hearing the expert's testimony. If the judge finds that the defense expert's testimony is admissible, then the jury may consider the defendant's confession in light of the expert's opinion regarding its reliability.

Third Bite: After Conviction

Confessions are so persuasive that appellate courts, in our experience, are reluctant to overturn a conviction by revisiting a Miranda issue, except on procedural grounds (whether or when the suspect was mirandized). Psychiatric and psychological expert opinions may be useful, however, when there was ineffective assistance of counsel by failure to explore bites one and two, and DNA or other scientific evidence needs to be bolstered by a credible explanation of how a false confession came about.

False Confessions, Expert Testimony, and Admissibility.
Watson et al. 2010.
The Journal of the American Academy of Psychiatry and the Law, pp. 181-182.

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. Kassin'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 Kassin, 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)

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.[204] *It 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."*

Models of Interrogation and Interview

- Interrogation model (Reid)
- Deceptive use of false evidence
- Selling confession
- Confirmation Bias
- Belief in Lie Detection
- Pretext phone call
- Interview model (PEACE)
- Persuasive versus Investigative Techniques

The Interrogation Model (Reid Technique)

The Reid technique is a psychological method of interrogation that advocates believe can successfully extract information from unwilling suspects. The technique was developed by John Reid, a polygrapher and former Chicago police officer. In 1955 in Lincoln Nebraska, Reid obtained a confession from a murder suspect (Darrell Parker) for his wife's murder. Mr. Parker recanted his confession the next day, but it was still admitted in his trial. He was convicted and sentenced to life in prison. However, Mr. Parker was later determined to be innocent after another man confessed to the crime. Mr. Parker sued the state for wrongful conviction and was paid $500,000 in compensation.

Despite failure, this initial case established Reid's reputation and popularized his technique. Mr. Reid published a book on the Reid Technique in 1962. He passed in 1983, but the Reid company is still thriving and is said to have trained more investigators than any other company in the world. His technique continues to be particularly popular with United States law enforcement.

Maximization and Minimization Techniques

1. **Scare tactics (maximization)** are designed to intimidate a suspect believed to be guilty. This intimidation is achieved by overstating the seriousness of offense and the magnitude of the charges and even by making false or exaggerated claims about the evidence.
2. **Minimization** is a soft sell technique in which the detective tries to lull the suspect into a false sense of security by offering sympathy, tolerance, face-saving excuses, and moral justification; by blaming the victim or an accomplice; and by underplaying the seriousness or magnitude of the charges.
3. A detective will use an average of 5.62 tactics per interrogation, and these tactics involve using both negative incentives (confronting the suspect with true or false incriminating evidence, refusing to accept denials, or noting contradictions in the suspect story) and positive incentives (appealing to the suspect self-interest or conscience, praising the suspect, minimizing the moral seriousness of the offense).
4. Typically promises and threats are made by pragmatic implication and <u>not</u> directly.

Types of False Confessions

1. **Voluntary False Confessions**. This is a self-incriminating statement that is offered without external pressure from the police (200 people confessed to the Charles Lindbergh baby kidnapping). Sometimes this is to protect a friend or relative. You can also address a pathological need for feigning, acceptance, recognition, or self-punishment.
2. **Coerced – Compliant False Confessions**. Suspects confess after intense interrogation pressures. Within this category there are two forms of social influence: **compliance** and **internalization**. **Compliance** refers to a change in one's public behaviors for instrumental purposes. Research on obedience to authority is a classic example of this. In contrast, **internalization** refers to a private acceptance of the beliefs expressed by others.

3. **Coerced-compliant False Confessions** occur when a suspect confesses in order to escape or avoid an adverse interrogation or to gain the promised reward. In these cases, the confession is merely an active compliance, and the suspect privately knows that he or she is truly innocent. From a psychological point of view, of course – compliant false confessions are the easiest to understand, as they arise when a suspect comes to believe that the short-term benefits of confessing outweigh the long-term costs. "Individuals who are characteristically predisposed to exhibit compliance in social influence situations may be particularly vulnerable in this regard." Remember the Phoenix case in which six Thai Buddhist monks were murdered. Three young men were falsely arrested and put under intense late-night pressure. One was interrogated nonstop for 21 hours; another was told that his brothers would be arrested. All of the men eventually confessed and spent 70 days in jail – until the real murderers were discovered.
4. **Coerced-internalized False Confessions**. These occur when an innocent person – anxious, tired, confused, and subjected highly suggestive methods of interrogation – actually comes believe that he or she committed the crime. This type of false confessions particular frightening because of suspects memory of his or her own actions may be altered, rendering the original contents potentially your retrievable. Research is shown that individuals with high scores on interrogated suggestibility also tend to exhibit poor memories, high levels of anxiety, low self-esteem, and a lack of assertiveness. Interrogated suggestibility scores increases function of prolonged sleep deprivation.

Risk of false confession

Critics claim the technique too easily produces false confessions, especially with juveniles, with second-language speakers in their non-native language, and with people whose communication/language abilities are affected by mental disabilities, including reduced intellectual capacity.

- *"Of the three hundred and eleven people exonerated through post-conviction DNA testing, more than a quarter had given false confessions—including those convicted in such notorious cases as the Central Park Five."*
- Several European countries prohibit some interrogation techniques that are acceptable in the United States, such as a law enforcement officer lying to a suspect about evidence, due to the perceived risk of false confessions and wrongful convictions that might result, particularly with juveniles. For example, §136a of the German Strafprozessordnung [de] (StPO, "code of criminal procedure") bans the use of deception and intimidation in interrogations; the Reid method also conflicts with the German police's obligation to adequately inform the suspect of their right to silence.
- In Canada, Provincial Court Judge Mike Dinkel ruled in 2012 that "stripped to its bare essentials, the Reid technique is a guilt-presumptive, confrontational, psychologically manipulative procedure whose purpose is to extract a confession."
- In December 2013, an unredacted copy of the secret Federal Bureau of Investigation interrogation manual was discovered in the Library of Congress, available for public view. The manual confirmed American Civil Liberties Union concerns that FBI agents used the Reid technique in interrogations.
- Abuses of interrogation methods include officers treating accused suspects aggressively and telling them lies about the amount of evidence proving their guilt. Such exaggerated claims of evidence, such as video or genetics, have the potential, when combined with such coercive tactics as threats of harm or promises of leniency, to cause innocent suspects to become psychologically overwhelmed. In 2003, an innocent man who repeated he was not guilty and was on a bus at the time the robbery in question occurred, successfully sued the Hamilton Police Service for coercion that resulted in a false confession by him.

- In 2015, eight organizations including John E. Reid & Associates settled with Juan Rivera, who was wrongfully convicted of the 1992 rape and murder of 11-year-old Holly Staker. A number of pieces of evidence excluded Rivera, including DNA from the rape kit and the report from the electronic ankle monitor he was wearing at the time, as he awaited trial for a non-violent burglary. But, he falsely confessed to the Staker crimes after being interrogated by the police several days after taking two polygraph examinations at Reid and Associates. After his exoneration, Rivera filed a suit for false arrest and malicious prosecution. The case was settled out of court with John E. Reid & Associates paying $2 million.

James Orlando, Associate Attorney at OLR Research, notes:

The Reid method is a system of interviewing and interrogation widely used by police departments in the United States. The term "The Reid Technique of Interviewing and Interrogation" is a registered trademark of John E. Reid and Associates, Inc. According to the company's website, over 500,000 law enforcement and security professionals have attended the company's interview and interrogation training programs since they were first offered in 1974.

Some critics contend that the Reid Technique is premised on certain assumptions about human behavior that are not supported by empirical evidence, and that the technique may lead to false confessions. The company contends that critics mischaracterize the Reid Technique and that false confessions are caused by interrogators applying inappropriate methods not endorsed by the company.

Two alternative interrogation techniques are (1) Preparation and Planning, Engage and Explain, Account, Closure and Evaluate (PEACE), a less confrontational method used in England, and (2) the Kinesic Interview, a method that focuses on recognizing deception.

REID TECHNIQUE

The Reid Technique involves three components – factual analysis, interviewing, and interrogation. Following is a brief summary of these components; more information is available on the company's website.

Factual Analysis

The Reid website describes factual analysis as; "*an inductive approach where each individual suspect is evaluated with respect to specific observations relating to the crime. Consequently, factual analysis relies not only on crime scene analysis, but also on information learned about each suspect. . . . Applying factual analysis . . . results in establishing an estimate of a particular suspect's probable guilt or innocence based on such things as the suspect's bio-social status (gender, race, occupation, marital status, etc.), opportunity and access to commit the crime, their behavior before and after the crime, their motivations and propensity to commit the crime, and evaluation of physical and circumstantial evidence.*"

This factual analysis is also intended to "*identify characteristics about the suspect and the crime which will be helpful during an interrogation of the suspect believed to be guilty [,]*" such as motive or the suspect's personality type.

Behavior Analysis Interview

The Reid website describes the Behavior Analysis Interview (BAI) as a non-accusatory question and answer session, involving both standard investigative questions and "structured 'behavior provoking' questions to elicit behavior symptoms of truth or deception from the person being interviewed."

The investigator first asks background questions, to establish personal information about the suspect and allow the investigator to evaluate the suspect's "normal" verbal and nonverbal behavior. The investigator then asks "behavior-provoking" questions intended "to elicit different verbal and nonverbal responses from truthful and deceptive suspects." The investigator will also ask some investigative questions during this stage. The Reid website states that the BAI:

> "*provides objective criteria to render an opinion about the suspect's truthfulness through evaluating responses to the behavior-provoking and investigative questions. In addition, the BAI facilitates the eventual interrogation of guilty suspects . . . by establishing a working rapport with the suspect during the non-accusatory BAI, and developing insight about the suspect and his crime to facilitate the formulation of an interrogation strategy."*

Interrogation

The Reid website states that an interrogation "*should only occur when the investigator is reasonably certain of the suspect's involvement in the issue under investigation*." There are nine steps to the Reid interrogation technique, briefly described below.

1. The positive confrontation. The investigator tells the suspect that the evidence demonstrates the person's guilt. If the person's guilt seems clear to the investigator, the statement should be unequivocal.

2. Theme development. The investigator then presents a moral justification (theme) for the offense, such as placing the moral blame on someone else or outside circumstances. The investigator presents the theme in a monologue and in sympathetic manner.

3. Handling denials. When the suspect asks for permission to speak at this stage (likely to deny the accusations), the investigator should discourage allowing the suspect to do so. The Reid website asserts that innocent suspects are less likely to ask for permission and more likely to "promptly and unequivocally" deny the accusation. The website states that "[i]t is very rare for an innocent suspect to move past this denial state."

4. Overcoming objections. When attempts at denial do not succeed, a guilty suspect often makes objections to support a claim of innocence (e.g., I would never do that because I love my job.) The investigator should generally accept these objections as if they were truthful, rather than arguing with the suspect, and use the objections to further develop the theme.

5. Procurement and retention of suspect's attention. The investigator must procure the suspect's attention so that the suspect focuses on the investigator's theme rather than on punishment. One way the investigator can do this is to close the physical distance between himself or herself and the suspect. The investigator should also "channel the theme down to the probable alternative components."

6. Handling the suspect's passive mood. The investigator "should intensify the theme presentation and concentrate on the central reasons he [or she] is offering as psychological justification . . . [and] continue to display an understanding and sympathetic demeanor in urging the suspect to tell the truth."

7. Presenting an alternative question. The investigator should present two choices, assuming the suspect's guilt and developed as a "logical extension from the theme,"

with one alternative offering a better justification for the crime (e.g., "Did you plan this thing out or did it just happen on the spur of the moment?"). The investigator may follow the question with a supporting statement "which encourages the suspect to choose the more understandable side of the alternative."

8. Having the suspect orally relate various details of the offense. After the suspect accepts one side of the alternative (thus admitting guilt), the investigator should immediately respond with a statement of reinforcement acknowledging that admission. The investigator then seeks to obtain a brief oral review of the basic events, before asking more detailed questions.

9. Converting an oral confession to a written confession. The investigator must convert the oral confession into a written or recorded confession. The website provides some guidelines, such as repeating Miranda warnings, avoiding leading questions, and using the suspect's own language.

Wyatt Kozinski notes the following:

> *"While the Reid Manual describes this part of the Technique as a nine-step process, it actually resolves itself into three major components: (1) tell the suspect you already know for sure he committed the crime, and cut off any attempts on his part to deny it; (2) offer the suspect more than one scenario for how he committed the crime, and suggest that his conduct was likely the least culpable, perhaps even morally justifiable (minimization); (3) overstate the strength of the evidence the police have inculpating the suspect—by inventing non-existent physical evidence or witness statements, for example—and assuring him he'll get convicted regardless of whether he talks. The driving idea is to persuade the suspect that it's in his best interest to give a confession that paints him in a positive light. There is usually the implicit, and sometimes explicit, suggestion that the interrogator will intercede with the prosecutor or the judge on the suspect's behalf so that he'll get away with a light sentence or perhaps no sentence at all. In fact, of course, the suspect derives no benefit from speaking to the police; the only thing the confession accomplishes is to incriminate the defendant, who is promptly arrested and convicted based on his confession, even though there may be strong evidence exonerating him."*
>
> Wyatt Kozinski, The Reid Interrogation Technique and false confessions: A time for change. (2018). Seattle Journal for Social Justice, Vol 16, 2, pp. 311-312.

James Orlando, Associate Attorney at OLR Research, includes critiques of the Reid Technique:

There has been considerable academic research on various aspects of police interrogation, including whether interrogation methods can lead to false confessions. Below, we briefly describe some criticisms of the Reid Technique, as well as responses to such criticisms by Reid and Associates, Inc. For a more detailed summary of criticisms of the Reid Technique, see this article from Criminal Law Quarterly, a Canadian journal. For more information on the company's response to such criticisms, see this document from Reid's website.

In the "Sources and Other Information" section of this report, we provide links to some studies and commentary on these issues. This report does not attempt to survey the vast range of research on the relationship between interrogation techniques and false confessions. If you would like more information about particular aspects of this issue, please let us know.

Discerning truth or deception

One aspect of the Reid approach is to train investigators to discern when a suspect is lying (e.g., by analyzing nonverbal behavior during the initial interview). Critics question whether training can actually lead investigators to do so, and point to various studies concerning the ability to discern truth from lying. For example, one frequent critic of the Reid Technique, law professor Richard Leo, argues that extensive social science research has demonstrated:

> *"that people are poor at making accurate judgments of truth and deception in general, that the behavior cues police rely on in particular are not diagnostic of deception, and that investigators cannot distinguish truthful from false denials of guilt at rates significantly greater than chance, but instead routinely make confidently held yet erroneous judgments"* (Leo 2013, 203*).*

Reid and Associates, Inc. argues that many such studies have limited applicability to police interrogations. For example, the studies may have (1) involved college students in laboratory settings, with students having low motivation to be believed if innocent or avoid detection if lying, or (2) been conducted by people not trained to interview criminal suspects. The company also points to other studies supporting the contention that training can increase the ability of police to detect when suspects are lying.

False confessions

Critics argue that various features of the Reid interrogation method may lead certain innocent suspects to confess. For example, one critique argues that "the guilt-presumptive nature" of the Reid method "creates a slippery slope for innocent suspects because it may set in motion a sequence of reciprocal observations and reactions between the suspect and interrogator that serve to confirm the interrogator's belief in the suspect's guilt" (Moore and Fitzsimmons, 513). According to some critics of the Reid Technique, aspects of Reid-style interrogation that may lead to false confessions include (1) misclassification (the police attributing deception to truthful suspects); (2) coercion (including psychological manipulation); and (3) contamination (such as when police present non-public information to a suspect, and the suspect incorporates that information in his or her confession) (Gudjonsson 2012, 695, discussing Leo and Drizin among other studies).

Reid and Associates, Inc. disputes the contention that their methods lead to false confessions. They argue that:

> False confessions are not caused by the application of the Reid Technique . . . [but instead] are usually caused by interrogators engaging in improper behavior that is outside of the parameters of the Reid Technique . . . such as threatening inevitable consequences; making a promise of leniency in return for the confession; denying a subject their rights; conducting an excessively long interrogation; etc.

The company also cites court cases upholding their methods or denying the admission of expert testimony that would link those methods to false confessions (e.g., U.S. v. Jacques, 784 F.Supp.2d 59, D. Mass. (2011)).

Alternative models

The PEACE (Preparation and Planning, Engage and Explain, Account, Closure and Evaluate) model developed in Britain "encourages more of a dialogue between investigator and suspect".

In 2015, the Royal Canadian Mounted Police adopted a new standard influenced by the PEACE model. Sgt. Darren Carr, who trains police with the new approach, described it as "less Kojak and more Dr. Phil". This approach eschews the use of deceptive information to overwhelm suspects. It emphasizes information gathering over eliciting confessions, and discourages investigators from presuming a suspect's guilt.

Reid technique is problematic
Jeffrey Manishen is a partner with Ross & McBride LLP
Law Times 11 Dec 2017

In 1998, a 25-year-old unsophisticated man in Alberta was arrested for aggravated assault on his infant son. After several hours of interrogation, during which time he repeatedly denied having hurt his son, he was left in the interview room. Sobbing, he wrote out an apology and made comments like, "How could I have done this?"

The investigating officers in M.J.S. [2000] A.J. No. 391 managed to overcome the suspect's refusal to accept responsibility for the offence by the use of what is known as the Reid technique, an interrogation approach developed in the United States by John E. Reid & Associates.

The Reid technique instructs investigators to engage in "behaviour symptom analysis," relying on patterns of conduct that supposedly indicate whether or not the suspect is telling the truth. The interrogation begins with the investigator asserting his absolute certainty of the suspect's guilt. The suspect is relentlessly pushed to accept culpability.

Moral justifications may be proffered (for example, that the suspect experienced abuse as a child, or that they inflicted the injuries unintentionally).

The suspect may be confronted with exaggerated or fabricated evidence.

They may be told that the proof of their guilt is incontrovertible, given that all other suspects had been cleared.

The investigator may present two alternative versions of the suspect's conduct, one of which is significantly worse than the other, and encourage the suspect to adopt the less serious model.

A suspect who remains silent or continues to deny involvement may be faced with an investigator unwilling to accept that position, confronting him with the investigator's theory of what "really" happened and endeavouring to overcome any reluctance to confess.

The trial judge was very critical of the methods used by the police on the suspect in the Alberta Provincial Court Criminal Division case, characterizing it as a "classic illustration of how slavish adherence to a technique can produce a coerced-compliant confession." He ruled the evidence inadmissible.

He also wasn't the first to reach such conclusions in assessing the impact of the Reid technique on the admissibility of evidence and was, by no means, the last.

In R. v. Thaher, 2016 ONCJ 113, Justice Peter Andras Schreck refused to admit a Reid-based confession by a mentally ill, fatigued man accused of attempted murder and questioned for more than seven hours. Referring to the Supreme Court of Canada decision in R. v. Oickle, 2000 SCC 38, [2000] 2 S.C.R. 3, Schreck characterized the method as a "shoddy police practice … shown to be coercive and to produce false confessions."

In R. v. Goro 2017 ONSC 1236, Halton and RCMP police officers executed a warrant for footprint impressions on a man under investigation for a cold-case murder.

He was never told of his right to counsel, cautioned or told he was free to leave at any time. Rather, he was interrogated for almost six hours.

In the face of lengthy police monologues insisting on his guilt, he denied culpability but some of his statements could have been contradicted by forensic evidence.

In the ruling, Justice Dale Fitzpatrick found it unnecessary to decide the Reid issue due to overriding Charter issues on detention.

However, he stated, "[U]se of the Reid technique or something akin to it does not automatically render a statement inadmissible. . . However, the technique is inherently coercive and for that reason has been the subject of considerable judicial and academic criticism."

One may wonder why some police services continue to use such questionable methods, given the risk of wrongful convictions, unsuccessful prosecutions and the attendant failure to investigate and apprehend the real perpetrators.

It can't be for a lack of alternatives. The investigative interviewing approach involves a thorough and objective investigation of both the offence and the suspect.

It is followed by an open-ended interview where the suspect is allowed to talk freely in response to open-ended, non-confrontational questions, which has proven to be very effective in gaining admissions that don't involve the risk of false confessions.

One such technique, known as PEACE (preparation, engagement, accounting, closure and evaluation), involves officers asking follow-up questions based on the answers given as well as other information compiled by the investigators.

One need only watch the very skillful interview of Col. Russell Williams by Ontario Provincial Police detective Jim Smyth to see how a suspect may be engaged in non-confrontational dialogue, ultimately leading to false statements and a full confession to acts of murder.

Several countries in Europe and elsewhere have successfully implemented the investigative interviewing method. In the United States, Wicklander-Zulawski & Associates, a private agency involved in training police officers for many years, has discontinued teaching the Reid technique as a result of concerns over false confessions.

While several police services in Canada have incorporated the use of investigative interviewing methods such as PEACE into their training, many have not yet chosen to discourage or discontinue the use of the Reid technique.

Judicial commentary on the problematic aspects of this method of interrogation is going into its second decade.

I encourage members of the legal profession to add their voices to those who have urged our police services to cease utilizing the Reid technique once and for all. Let's hope they'll listen. Our justice system would certainly be better if they do.

Research on the Reid Technique

Accusatorial and information-gathering interrogation methods and their effects on true and Confession Evidence: Commonsense Myths and Misconceptions

Saul M. Kassin

Criminal Justice and Behavior (Oct. 1, 2008).

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.

Arguments Against Use of the Reid Technique for Juvenile Interrogations

Buffie Brooke Merryman

Communication Law Review, 2010. Volume 10, Issue 2

Abstract:

This Article asserts the differences between juveniles and adults in the interrogation room rendering methods commonly used to question adult suspects improper for minors. Specifically, this Article criticizes the widespread use of the "Reid Technique" when interrogating juveniles, discusses the psychological consequences of that technique, and suggests alternative interrogation methods in order to safeguard juveniles before, during, and after questioning by police. Part I discusses cases and studies reflecting how courts view juvenile protection and explains why the unique characteristics of juveniles merit that protection in the interrogation room. Part II briefly outlines the nine steps of the Reid Technique of interrogation, discusses its use in police stations throughout the United States, and criticizes its application to juvenile interrogation. Finally, Part III highlights research discussing safeguards for minors in the interrogation room and then asserts that proper training is the key to overhauling the utility of the Reid Technique when questioning juveniles.

Questioning Suspects: A Comparative Perspective

David Dixon

Journal of Contemporary Criminal Justice, 2010. Volume: 26 issue: 4, page(s): 426-440

Abstract

This article contrasts the ways in which English-speaking jurisdictions have responded to concerns about practices in the police interrogation of suspects. Since the mid-1990s, a stark contrast has developed between the methods taught to North American police officers via the "Reid Technique" and similar U.S. training programs and the strategy of "investigative interviewing" in England and Wales (and increasingly elsewhere in Europe and Australasia). This policy divergence must be understood in the context of differing responses to miscarriages of justice and investigative failures (caused, at least in part, by inefficient interrogation techniques) and the knowledge which inquiries into these miscarriages and failures produced. While investigative interviewing is part of a response to criminal process failure which sees both wrongful convictions and failed prosecutions as problematic, the United States has been slow to acknowledge the scale of a problem which has not only convicted (and executed) the innocent, but also failed to bring the guilty

to justice. Drawing on empirical research in Australia, where audio-visual recording has been used routinely since the early 1990s, the article notes the limits and benefits of electronic recording, which too often is presented as a panacea. The article notes that most discussion of American interrogation takes place in an empirical vacuum and expresses doubts about the prevalent accounts of police practice. It also notes some recent interest in the United States in alternative approaches to interrogating suspects which have developed from the experience of questioning terrorist suspects.

False confessions, police interrogation tactics, and the case of the messengers who almost killed the message.

Zelig, Mark

PsycCRITIQUES, Vol 56(1), 2011.

Reviewed Item:

Lassiter, G. Daniel (Ed); Meissner, Christian A. (Ed). (2010) Police interrogations and false confessions: Current research, practice, and policy recommendations Washington, DC: American Psychological Association. 237pp.

Abstract:

Reviews the book, Police interrogations and false confessions: Current research, practice, and policy recommendations edited by G. Daniel Lassiter and Christian A. Meissner (see record 2009-19611-000). Why do innocent people confess to crimes they didn't commit? Lassiter and Meissner have assembled many of the world's most renowned researchers to answer why some innocent people confess to serious criminal behavior. The authors accuse the disciples of the Reid technique of interrogation of planting the seeds of confirmatory bias by teaching erroneous information regarding surefire indicators of deception. Once the suspect is misclassified as deceptive, he or she is subjected to a barrage of psychologically coercive techniques, a component of the popular Reid workshops. If these techniques are applied to an at-risk suspect, a confession may result, even if the suspect was not criminally responsible. The review of scientific findings regarding the production of false confessions is very useful. However, an apparent lack of appreciation for the realities of police work diminishes this volume's potency as a change agent. Despite my strong objections to the policy recommendations proposed by the editors and some of the contributors, I believe Police interrogations and false confessions: Current research, practice, and policy recommendations is a valuable research compendium on the topic of false confessions. This volume clearly answers why some people confess to a crime they never committed and why some police investigators make self-defeating errors that actually lead them further away from solving important crimes than when they began their investigation. This text is recommended for researchers, academicians, and practitioners in the field.

Inside Interrogation: The Lie, The Bluff, and False Confessions

Jennifer T. Perillo • Saul M. Kassin

Law of Human Behavior (2011). 35: 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 con- fess. 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.

Justice Imperiled: False Confessions and the Reid Technique

Moore, Timothy and Fitzsimmons, Lindsay

Criminal Law Quarterly, 2011, Vol. 57 (4), 509-542.

Abstract:

There is widespread consensus that false confessions are one of the leading causes for wrongful convictions. Because confessions are statements against interest, they are regarded by the justice system as inherently reliable. Consequently, police,, prosecutors, judges, juries, and even defence counsel are predisposed to infer guilty, based on the confession. False confessions often result in the misdirection of resources, diminished public faith in the justice system, and the premature abandonment of an investigation that allows the actual culprit to remain free to commit additional crimes. This paper reviews the interrogation procedures currently in vogue in North America, describes inherent problems with it that compromise the reliability of admissions arising from it, and offers some suggestions for improvement.

Suspect Interviews and False Confessions

Gisli H. Gudjonsson and John Pearse

Current Directions in Psychological Science (2011). 20 (1), 33-37.

Abstract

In this article, we review two influential methods of police interviewing practice and their associations with false confessions. These are the Reid technique, which is commonly used by police forces in the United States, and the PEACE model, which is routinely used in the United Kingdom. Several authors have recently expressed concerns about the guilt-presumptive and confrontational aspects of the Reid technique and its association with false confessions and recommend that it be replaced by the PEACE model. Anecdotal case studies and DNA exonerations have shown that false confessions are more common than previously thought and are typically associated with two main causes: manipulative/coercive interrogation techniques and suspects' vulnerabilities in interviews. The main challenge for the future is to develop interview techniques that maximize the number of noncoerced true confessions while minimizing the rate of false confessions. In the meantime, the electronic recording of police interviews, which provides invaluable transparency and accountability, is the single best protection against police-induced false confessions.

False Confessions: Causes, Consequences, and Implications for Reform

Saul M. Kassin

Policy Insights from the Behavioral and Brain Sciences (Oct. 1, 2014).

Abstract

In recent years, DNA exoneration cases have shed light on the problem of false confessions and the wrongful convictions that result. Drawing on basic psychological principles and methods, an extensive body of research has focused on the psychology of confessions. This article describes the processes of interrogation by which police assess whether a suspect is lying or telling the truth and the techniques used to elicit confessions from those deemed deceptive. The problem of false confessions emphasizes personal and situational factors that put innocent people at risk in the interrogation room. Turning from the causes of false confessions to their consequences, research shows that confession evidence can bias juries,

judges, lay witnesses, and forensic examiners. Finally, empirically based proposals for the reform of policy and practice include a call for the mandatory video recording of interrogations, blind testing in forensic crime labs, and use of confession experts in court.

Going to the source: the "new" reid method and false confessions.
Alan Hirsh
Ohio State Journal of Criminal Law, (2014) Vol 11:2, 803-826

The leading interrogation manual, setting forth what has come to be known as the "Reid Technique," turned fifty in 2012.5 Just four years after its publication in 1962, this manual, published by the firm (Reid and Associates) that conducts the most widely attended training sessions for interrogators,6 attracted scathing commentary from the United States Supreme Court. In the seminal case of *Miranda v. Arizona*,7 the Court crafted its famous warning to criminal suspects in large part to protect against the psychological coercion at the heart of the Reid Technique.8 A year later, in 1967, Reid and Associates produced a second edition that incorporated *Miranda* warnings into its course of instruction, even as the authors brushed aside the Court's criticism.9

1986 brought forth a third edition of the manual, "an entirely new book" responsive to developments in the law governing confessions and interrogations and to improvements in the "art of interrogation."10 Though there would be refinements in subsequent editions, the 1986 manual set forth the essentials of the Reid Technique as we know it today. However, while expressing opposition to "*any* interrogation tactic or technique that is apt to make an innocent person confess,"11 the manual had little to say about the risk of false confessions.12 The omission was understandable, as this edition pre-dated the work of the Innocence Project, which awakened legal scholars and social scientists to the frequency of false confessions and spurred intense inquiry into their causes.13

False confessions: a meta-analytic review
Christian A. Meissner & Allison D. Redlich & Stephen W. Michael & Jacqueline R. Evans & Catherine R. Camilletti & Sujeeta Bhatt & Susan Brandon
Journal of Experimental Criminology (28 June 2014). 10:459-486.

Abstract

Objectives:

We completed a systematic review and meta-analysis of the available empirical literature assessing the influence of accusatorial and information-gathering methods of interrogation in eliciting true and false confessions.

Methods

We conducted two separate meta-analyses. The first meta-analysis focused on observational field studies that assessed the association between certain interrogation methods and elicitation of a confession statement. The second meta-analysis focused on experimental, laboratory-based studies in which ground truth was known (i.e., a confession is factually true or false). We located 5 field studies and 12 experimental studies eligible for the meta-analyses. We coded outcomes from both study types and report mean effect sizes with 95 % confidence intervals. A random effects model was used for analysis of effect sizes. Moderator analyses were conducted when appropriate

Results

Field studies revealed that both information-gathering and accusatorial approaches were more likely to elicit a confession when compared with direct questioning methods. However, experimental studies revealed that the information-gathering approach preserved, and in some cases increased, the likelihood of true confessions, while simultaneously reducing the likelihood of false confessions. In contrast, the accusatorial

approach increased both true and false confessions when compared with a direct questioning method.

Conclusions

The available data support the effectiveness of an information-gathering style of interviewing suspects. Caution is warranted, however, due to the small number of independent samples available for the analysis of both field and experimental studies. Additional research, including the use of quasi-experimental field studies, appears warranted.

The Social Psychology of False Confessions

Saul M. Kassin

Social Issues and Policy Review, January 2015. Vol. 9, Issue 1, pp. 25-51.

Abstract

Inspired by DNA exoneration cases and other wrongful convictions of innocent people who had confessed to crimes they did not commit and drawing from basic principles of social perception and social influence, a vast body of research has focused on the social psychology of confessions. In particular, this article describes laboratory and field studies on the "Milgramesque" processes of police interviewing an interrogation, the methods by which innocent people are judged deceptive and induced into confession, and the rippling effects of these confessions on judges, juries, lay and expert witnesses, and the truth-seeking process itself. This article concludes with a discussion of social and policy implications—including a call for the mandatory video recording of entire interrogations, blind testing in forensic science labs, and the admissibility of confession experts in court.

Police Training in Interviewing and Interrogation Methods: A Comparison of Techniques Used with Adult and Juvenile Suspects

Hayley M. D. Cleary and Todd C. Warner

Law and Human Behavior, 2015. Vol. 40, No. 3, 270–284

Abstract:

Despite empirical progress in documenting and classifying various interrogation techniques, very little is known about how police are trained in interrogation methods, how frequently they use various tech- niques, and whether they employ techniques differentially with adult versus juvenile suspects. This study reports the nature and extent of formal (e.g., Reid Technique, PEACE, HUMINT) and informal interrogation training as well as self-reported technique usage in a diverse national sample (N 340) of experienced American police officers. Officers were trained in a variety of different techniques ranging from comparatively benign pre-interrogation strategies (e.g., building rapport, observing body language or speech patterns) to more psychologically coercive techniques (e.g., blaming the victim, discouraging denials). Over half the sample reported being trained to use psychologically coercive techniques with both adults and juveniles. The majority (91%) receive informal, "on the job" interrogation training. Technique usage patterns indicate a spectrum of psychological intensity where information-gathering approaches were used most frequently and high-pressure tactics less frequently. Reid-trained officers (56%) were significantly more likely than officers without Reid training to use pre-interrogation and manipulation techniques. Across all analyses and techniques, usage patterns were identical for adult and juvenile suspects, suggesting that police interrogate youth in the same manner as adults. Overall, results suggest that training in specific interrogation methods is strongly associated with usage. Findings underscore the need for more law enforcement interrogation training in general, especially with juvenile suspects, and highlight the value of training as an avenue for reducing interrogation-induced miscarriages of justice.

Coercive interrogation of eyewitnesses can produce false accusations.
Loney, Danielle M., et.al.
Journal of Police and Criminal Psychology, Vol 31(1), Mar, 2016. pp. 29-36.
Abstract:

In the current study we hypothesized—and found—that coercive interviewing increased the incidences of false accusations made by eyewitnesses. Fifty-nine university students participated in a laboratory study in participant-confederate pairs and were later interviewed about whether the confederate stole a research assistant's cell phone. Participants interviewed using a Coercive Interview were significantly more likely to falsely accuse the confederate of stealing a cell phone than were participants interviewed using a non-coercive, Control Interview. Our findings raise questions regarding why participants gave false accusations and whether coercive methods could result in more accurate testimony from reluctant witnesses. We suggest the need for potential safeguards, such as the electronic recording of interviews of non-suspect witnesses to prevent or document the use of coercive methods.

Memory errors in police interviews: The bait question as a source of misinformation.
Luke, Timothy J.. John Jay College of Criminal Justice, City University of New York, New York, NY, US, tluke@gradcenter.cuny.edu
Crozier, William E., et.al.
Journal of Applied Research in Memory and Cognition, Vol 6(3), Sep, 2017. pp. 260-273.
Abstract:

Bait questions—where an investigator questions a suspect about the existence of hypothetical evidence—are a widely employed interviewing tactic. We examined whether these bait questions are a vehicle for misinformation to enter a criminal case, leading mock jurors to misremember the evidence. Adapting the misinformation effect paradigm, participants read a police report describing several pieces of evidence, then watched a police interview including bait questions that provided misleading information about the collected evidence. In Studies 1 and 2, participants' memory for evidence they were misled about was significantly less accurate than control evidence. Indeed, participants came to believe the hypothetical evidence proposed in the bait questions actually existed. In Studies 3 and 4, participants read warnings—varying in their specificity—about the misleading bait questions. These warnings were ineffective at mitigating the misinformation effect. Bait questions may, therefore, be a source of error in juror's decision-making, leading to wrongful convictions.

The Right to Remain a Child: The Impermissibility of the Reid Technique in Juvenile Interrogations
Ariel Spierer
New York University Law Review, 2017. New York University School of Law.
Abstract:

Police interrogations in the United States are focused on one thing: getting a confes- sion from the suspect. The Reid Technique, a guilt-presumptive nine-step method and the most common interrogation technique in the country, is integral to fulfilling this goal. With guidance from the Reid Technique, interrogators use coercion and deceit to extract confessions—regardless of the costs. When used with juvenile sus- pects, this method becomes all the more problematic. The coercion and deception inherent in the Reid Technique, coupled with the recognized vulnerabilities and susceptibilities of children as a group, has led to an unacceptably high rate of false confessions among juvenile suspects. And, when a juvenile falsely confesses as the result of coercive interrogation tactics, society ultimately suffers a net loss.

In the Eighth Amendment context, the Supreme Court has recognized that children are different from adults and must be treated differently in various areas of the criminal justice system. The Court's recent Eighth Amendment logic must now be extended to the Fifth Amendment context to require that juveniles be treated differ- ently in the interrogation room, as well. This Note suggests that the Reid Technique be categorically banned from juvenile interrogations through a constitutional ruling from the Court. Doing so would not foreclose juvenile interrogation; rather, a more cooperative and less coercive alternative could be utilized, such as the United Kingdom's PEACE method. Nonetheless, only a categorical constitutional rule that prohibits the use of the Reid Technique in all juvenile interrogations will eliminate the heightened risk of juvenile false confessions and truly safeguard children's Fifth Amendment rights.

A study of the perspectives of law students regarding false confessions and coercive interrogation tactics.

Avalle, Diana.

Dissertation Abstracts International Section A: Humanities and Social Sciences, Vol 79(11-A)(E), 2018.

Abstract:

The purpose of this research is to address how coercive police interrogation tactics can lead to a phenomenon rising in social consciousness, false confessions, with specific attention paid to the most popular form of police interrogation tactics, the Reid Technique. This research surveyed current law students to understand their perspectives regarding perceived coercion of certain interrogation tactics and the likelihood that such coercive interrogation tactics would elicit a false confession. The researcher also set out to determine if providing the psychology behind coercive interrogation tactics, and how they may lead to false confessions is perceived as useful to law students, and how likely it is that they would utilize such information in their future practices. This research is a first of its kind in that no other research has examined false confessions as related to law students; the only research regarding surveying criminal justice professionals surveyed law enforcement professionals, the interrogators, themselves. Although, presumably, due to a low sample size no significance was determined for the intervention used, there are still practical applications for the results of the research conducted.

The Reid Interrogation Technique and False Confessions: A Time for Change.

Wyatt Kozinski

Seattle Journal for Social Justice (4-4-2018). Vol. 16, Issue 2, article 10, pp.301-345

Abstract:

But the Reid Method has come under sustained attack in recent years. According to the W-Z press release, "[a]pproximately 29% of DNA exonerations in the US since 1989 have involved false confessions to the crime. . . . Academics have chronicled the commonalities among these cases and found the suspect is often mentally or intellectually challenged, interviewed without an attorney or parent, interrogated for over three hours, or told information about the crime by the investigators." While some of these practices are prescribed by the Reid Method, others are outside the protocol but, nevertheless, frequently employed by Reid-trained interrogators. This has generated a significant number of false confessions that have later resulted in exonerations, raising the concern that the Reid Method may be extracting confessions not merely from guilty people but from innocent ones as well.

Effects of interrogation style on believability of confessions.

Hernick, Stephanie.

Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 79(10-B)(E), 2018.

Abstract:

This dissertation was designed to explore what impact interrogation styles had on the believability of a confession. The interrogation styles that were examined were the Reid technique that is the common interrogation style used in United States (U.S.) and the PEACE technique which is more commonly used in the United Kingdom (U.K.). The independent variable in this study was the interrogation style: coercive (Reid) and non-coercive (PEACE). There was one dependent variable: believability of the confession which was rated on a Likert scale. Participants were recruited through a link to Qualtrics. After being provided an informed consent, participants completed several self-report measures including a demographic questionnaire, and then read two vignettes in which they used a Likert scale to rate how coercive they perceived each interrogation style, and how believable they found each confession to be. In one condition they read an interrogation using the Reid technique and another they read an interrogation using the PEACE technique these vignettes were counterbalanced. Participants were then asked to share information about how they reached each of their ratings. Participants were randomly assigned to receive either the Reid technique or PEACE technique vignette first, and then received the second vignette. A Repeated-Measures T test was used to analyze the data. Data analysis showed that participants found the Reid interrogation technique used in the U.S. to be more coercive than the PEACE technique used in the U.K. and were less likely to believe the confession given in the Reid interrogation than the PEACE interrogation.

Confessions of a criminal psychopath: An analysis of the Robert Pickton cell-plant.

Reid, Sasha and Lee, Jooyoung.

Journal of Police and Criminal Psychology, Vol 33(3), Sep, 2018. pp. 257-270.

Abstract:

Police interrogation methods have changed over time. While traditional techniques relied on violence and physical torture, modern techniques have shifted toward psychological coercion and manipulation. These techniques, most widely known as parts of The Reid Technique, have proven to be a powerful way to elicit confessions of guilt from suspected criminals. Authors of the Reid Technique claim that when applied correctly, their methods lead to significant increases in police confession rates. But, these techniques are not universally useful. In addition to eliciting false confessions, the Reid Technique has been less effective on psychopaths—who are self-centered, manipulative, and lack empathy. Psychopaths can be resistant to these methods, which rely on the interrogator's ability to induce fear, anxiety, and feelings of remorse in the suspect. When confronted with a criminal psychopath, interrogators face unique challenges requiring a different approach to interrogation. To show this, we analyze the cell plant video of an undercover officer who obtained a serial murder confession from Robert Pickton by appealing to his narcissism. We conclude by offering a few additional strategies that can be used by investigators when interrogating psychopaths.

Assessing the diagnosticity of a persuasion-based and a dialogue-based interrogation approach.

Eastwood, Joseph, et.al.

Journal of Police and Criminal Psychology, Oct 20, 2020.

Abstract:

The current study assessed the relative propensity of a persuasion-based and a dialogue-based interrogation approach to generate true and false confessions (i.e., their diagnosticity). Following the Russano cheating paradigm, participants were first either

induced or not induced to cheat on an experimental task to create innocent and guilty conditions. An experimenter, blind to the participants' guilt or innocence, then attempted to generate a confession using a persuasion-based or a dialogue-based interrogation approach. Chi-square analyses showed that both interrogation approaches generated an equally high proportion of true confessions from guilty participants (95% for both approaches; $p = 0.942$) but that the persuasion-based approach generated substantially more false confessions from innocent participants than the dialogue-based approach (45% vs. 0%, respectively; $p = 0.001$). The dialogue-based approach's clear advantage over the persuasion-based approach in this study adds to the call for law enforcement organizations to utilize dialogue-based approaches within real-world interrogations.

Deceptive Use of False Evidence[1]

Research on the dynamic of true and false confessions has also focused on the impact of the perception of the strength of evidence against the suspect. The interrogator's references to that evidence during interrogation and suspects' perceptions of the strength of evidence against them are strong predictors of confession for both innocent and guilty suspects. False confessions, however, are particularly promoted when interrogators falsely claim to have evidence they do not: for example, claiming to have witnesses, fingerprints, DNA, video, or failed (but actually passed) polygraphs or computerized voice stress analyses (CVSA; Kassin et al., 2010; see Stewart et al., 2018 for a meta-analysis of effects of false evidence),

Hopelessness and the Sexual Assault Suspect

Sexual assault and sexual abuse suspects are particularly vulnerable to the sense of hopelessness (Davis & Leo, 2016). The evidentiary situation of many such suspects tends to be unique in that there might be no evidence other than the accounts of each party. The incident could be far in the past and/or there might be no physical evidence or other witnesses. As a result, the suspect cannot envision what evidence might become available to show his innocence. In a "he-said"-"she-said" contest of credibility the suspect might well expect to lose to a child or alleged adult victim of rape: particularly in the #MeToo era and in the context of widespread cultural and professional dictates to "believe the victim" (e.g., Beck, 2015; Ferraro, 2020; Gerstmann, 2019). If the suspect falls into a social category stereotypically associated with sexual abuse, such as "step-father" or "gay male" and others (Livingston et al., 2020; McCoy & Gray, 2007; Smalarz et al., 2016), his sense that he is someone that others will believe can be further compromised.

Interrogators often offer sexual assault suspects the "opportunity" to clear themselves by taking a polygraph or CVSA (computerized voice stress analyzer) lie detection test. But instead, the attempt to clear oneself often results in an (allegedly) failed test, and even greater hopelessness. Both tests are highly prone to error and suspects are often misclassified as deceptive. Polygraph proponents claim that the comparison question technique (CQT) central to the polygraph and CVSA has 90% or better accuracy. However, a 2003 report of the National Research council of the National Academy of Sciences concluded that the scientific basis of the technique was weak, relevant research was of low quality, and the error rate unknown. A recent review of research since that time has likewise concluded the conclusions of the NAS report still stand (Iacono & Ben-Shakhar, 2019). Though the polygraph does perform at better than chance accuracy, the CVSA has been subject to almost no empirical tests, and those that have been published show it to detect deception at no better than chance levels (Hollien et al., 2008; Hopkins et al., 2005).

Either polygraph or CVSA may result in false positives, classifying innocents as deceptive. But this may be particularly likely for some suspects. The National Academy of Sciences noted that groups subject to criminal stereotypes are likely to experience identity or "stereotype" threat (Steele & Aronson, 1995) during interrogation or polygraph testing. Since the polygraph relies on indices of arousal and anxiety, such groups may have a greater rate of false positives due to the anxiety produced by this identity threat and the expectation of being viewed (in line with group-based stereotypes) as deceptive or criminal (National Research Council of the National Academies, 2003; see Davis & Leo, 2012, 2016; Najdowski, 2011 for further discussion of these issues). Whether a suspect does fail the polygraph or CVSA, or he is merely falsely told he did so, the "failed" result will further cement his sense of hopelessness, and interrogators will likely refer to it throughout the rest of the interrogation as evidence of the suspect's guilt. This situation poses a

[1] Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick. *Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator*. Univ. of San Francisco Law Research Paper No. 2021-07. Last revised: 30 Jun 2021. pp.17-18.

particularly difficult choice for the defense if the suspect goes to trial after confessing. Whereas polygraph results might be inadmissible if challenged by the defense, the defense ability to explain why the suspect might have falsely confessed is compromised by the inability to explain how the polygraph contributed to the sense of hopelessness for the suspect. If the defense refers to the use of the polygraph to explain why the suspect might falsely confess, the jury will likely be prejudiced by the allegedly failed result.

Though the proposition that sexual assault suspects will experience greater hopelessness in interrogation has not been tested directly, Davis and colleagues (2008, 2010) conducted a series of studies testing the extent to which uninvolved persons might view the situation as hopeless. Research participants first read a police interrogation of a child sexual abuse suspect incorporating common Reid techniques. They then indicated whether the suspect should confess to deliberate molestation, confess to accidental molestation (while sleeping, as suggested by the interrogator), continue talking without confessing, or invoke Miranda rights (and why).

Participants were either asked to assume the suspect was actually guilty or actually innocent. Across studies, 16 to 29% recommended that innocent suspects should falsely confess to have the greatest chance to avoid criminal charges at all or conviction if charged; and up to 57% recommended false confession to get the least serious charges. Most of these recommended falsely confessing to accidental molestation: and, reflecting the proposed sense of hopelessness, the majority suggested the suspect should do so because no one would believe him innocent and it was best to tell the most favorable story about why it happened.

Selling Confession[2]

The second broad purpose of interrogation is to sell confession as the way to achieve the best legal and non-legal outcomes. The interrogator misleads the suspect in at least three ways (in addition to exaggerating the strength of evidence): (1) to falsely cast the interrogation as a negotiation in which the interrogator will have significant influence on whether and what charges are filed against the suspect, (2) to minimize resistance to the interrogator by falsely casting him as a benevolent ally, and (3) to offer misleading or wholly false arguments regarding the relative advantages of confession versus denial (Davis, 2010).

To accomplish the first two of these, interrogators are trained to use what we have called the "*sympathetic detective with the time-limited offer*" set of strategies (Davis et al., 2010; Davis & O'Donohue, 2004). These include flattering the suspect, behaving in a very friendly and apparently supportive manner, and telling the suspect that the interrogator would like to help him, but can only do so if the suspect confesses before he leaves the interrogation. Such behaviors are effective in causing the suspect to believe the interrogator can affect the charges against him, and that the interrogator actually wants to help the suspect get the best outcomes (e.g., Davis et al., 2010). These beliefs render the detective more credible and effective when he offers arguments for confession. Building on suspect's perceptions that the interrogator is attempting to sincerely advise the suspect of the best choice, the interrogator then offers information or arguments designed to lower the perceived costs of confession and to raise perceived costs of denial (Kassin & McNall, 1991; Leo, 2020).

To facilitate this process, interrogators are likely to make many suggestions that the consequences of the situation are flexible, that they depend upon whether the suspect confesses, and that worse outcomes will result if he refuses to do so (though this must be done without explicitly threatening harsher outcomes in response to denial or promising more lenient outcomes in response to confession). They might ask the suspect how it will look to the judge and jury if he lies to their face (versus "stands up like a man" and takes responsibility). They might suggest that there are "many ways this can go" or "you are at a crossroads here that will affect the rest of your life."

To lower perceived costs of confession, the interrogator directly states or implies that the interrogator is offering the suspect an opportunity to "help himself" or "*tell his side of the story*." This is accomplished, of course, by confessing. And, this opportunity will increasingly disappear if he continues to deny. The interrogator further states or implies that the incident is not that serious, and that it might not result in any (or very serious) charges: perhaps counseling instead of jail. There are often references to getting the situation "cleared up" and getting the suspect some "help" or counseling. The most common of these strategies is called "minimization" (Kassin et al., 2010) or "theme development" (Inbau et al., 2013). This refers to the practice of suggesting scenarios for how and why the incident occurred that seem to be relatively understandable and appear to "minimize" its seriousness (for example, shooting someone who started a fight versus doing so unprovoked; touching a child's genitals while asleep thinking it was your wife versus doing so knowingly and deliberately).

Interrogation manuals include a large number of suggestions for "themes" to use with suspects for a number of specific crimes, including child and adult sexual assault (Senese, 2005). Use of such minimization themes has been shown to lower perceived consequences of confession (Luke & Alceste, 2020), and to increase the rate of both true and false confession, as well as decreasing their "diagnosticity" (i.e., the ratio of true to false confessions; Horgan et al., 2012; Russano et al.,

[2] Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick. *Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator*. Univ. of San Francisco Law Research Paper No. 2021-07. Last revised: 30 Jun 2021. pp.18-19.

2005). Pretext callers are also instructed regarding how to use minimization, and can do so quite effectively . . . Both pretext callers and interrogators can also refer to other benefits of confession: such as "getting it off your chest," "doing the right thing," preserving the relationship with the alleged victim or other family members, taking responsibility and looking good to judges, juries, family, friends or others.

Building on theme development and other minimizing messages, the interrogator might use what is called the "alternative question" (Step 7 of the Reid method) when he senses the suspect might be approaching willingness to make an admission. Such a question contrasts a more serious and morally unjustifiable scenario with one that is seemingly less serious and more understandable: "Did you commit this burglary just so you would have enough drug money for you and your buddies, or did you do it to take care of your family and give them the food and shelter they need?" Such contrasts can be effective in eliciting an initial admission (Reid et al., 2013).

Pretext callers and interrogators alike might also use "maximization" - or scare tactics designed to raise the perceived costs of denial (Kassin & McNall, 1991; Leo, 2020). For the pretext caller this often entails threats to terminate the relationship with the suspect, or to inform other friends and family (Livingston et al., 2019). Police interrogators should not make explicit threats of legal consequences, though they sometimes do. Instead, they are trained to imply that the suspect will experience harsher outcomes if he refuses to confess (such as unfavorable judge or jury reactions to lying). The interrogator might also threaten to withdraw his "help" from the suspect.

Together, the many tactics of the interrogator or the pretext caller are often effective in eliciting some form of incriminating statements, admissions, or full confessions. While the pretext caller is limited in ability to cause the suspect to make a coherent, detailed, full confession, the next goal of the interrogator is to elicit a final complete account that includes all elements of the ideal confession.

Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick. *Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator*. Univ. of San Francisco Law Research Paper No. 2021-07. Last revised: 30 Jun 2021. pp.18-19.

Confirmation Bias

"*Confirmation Bias*"

> *"the tendency to process information by looking for, or interpreting, information that is consistent with one's existing beliefs. This biased approach to decision making is largely unintentional and often results in ignoring inconsistent information. Existing beliefs can include one's expectations in a given situation and predictions about a particular outcome. People are especially likely to process information to support their own beliefs when the issue is highly important or self-relevant."* (The Encyclopedia Britannica, britannica.com/science/confirmation-bias)

"When the only tool you have is a hammer, every problem looks starts to look like a nail."

Psychological science has found that experts tend to find what they "expect" to find. This goes by different names: "*Confirmatory Bias*", the "*Rosenthal Effect*" ("*Pygmalion Effect*"), the "*Rosenhan Experiment* (*Sane in Insane Places*)", "*Mental Set*", "*Primacy Effect*", or "*First Impressions*" dynamic. The CIB expert needs to demonstrate they are cognizant of this phenomenon that adversely affects objective decision-making and show reasonable steps have been taken to avoid the various pitfalls. For example - the tendency for information gathering to be influenced by first impressions or a bias. There is a natural (albeit it unintentional) tendency to accept the essential accuracy of the self-reports of subjects in a study.

- Confirmation biases can occur through a researcher engaging in hypothesis-confirming information seeking and interpretation, overweighting confirmatory signs and underweighting dis-confirmatory signs, especially in unstructured interviews.
- Interviewers' characteristics and biases can influence how interviewers interpret information and determine subsequent queries (Tanaka-Matsumi, 2004).
- A lack of training and experience on the part of the research interviewers can result in erroneous information and weaken the validity of their findings (Bootzin & Ruggill, 1988).
- Data gathered from interviews can be biased due to social desirability and participants' own discomfort with disclosing personal information (Guinn et al., 2010). Self-report data can be accurate, but also can be an exaggeration or a minimization (Haynes, Mumma, & Pinson, 2009; Haynes, O'Brien, & Kaholokula, 2011).
- Because the interview method requires retrospective recall, information gathered is prone to memory errors and recall biases (Graham, Catania, Brand, Duong, & Canchola, 2003)."

Psychological research frequently uses techniques for mitigating the effects of confirmation biases, called "*blind*" or "*double-blind*" experimental protocols (Gluud, 2006). This is where the interviewer and/or the interviewee do not know the underlying purpose of the study. This helps to eliminate confirmatory bias.

Bottom Line:
Investigators are prone to confirmation biases. Consider asking the investigator on the stand:

- What is confirmatory bias?
- How do you correct for confirmatory bias?
- Did you systematically rule out rival explanations? What contradictory points of data were found?

It is a type of cognitive bias and a systematic error of inductive reasoning. People display this bias when they gather or remember information selectively, or when they interpret it in a biased way. The effect is stronger for emotionally charged issues and for deeply entrenched beliefs. People also tend to interpret ambiguous evidence as supporting their existing position. Biased search, interpretation and memory have been invoked to explain attitude polarization (when a disagreement becomes more extreme even though the different parties are exposed to the same evidence), belief perseverance (when beliefs persist after the evidence for them is shown to be false), the irrational primacy effect (a greater reliance on information encountered early in a series) and illusory correlation (when people falsely perceive an association between two events or situations).

A series of experiments in the 1960s suggested that people are biased toward confirming their existing beliefs. Later work re-interpreted these results as a tendency to test ideas in a one-sided way, focusing on one possibility and ignoring alternatives. In certain situations, this tendency can

bias people's conclusions. Explanations for the observed biases include wishful thinking and the limited human capacity to process information. Another explanation is that people show confirmation bias because they are weighing up the costs of being wrong, rather than investigating in a neutral, scientific way.

Confirmation biases contribute to overconfidence in personal beliefs and can maintain or strengthen beliefs in the face of contrary evidence.

On the cognition of causal relationships.
Toda, Masanao. Japanese Journal of Behaviormetrics, Vol 14(1), Sep, 1986. pp. 60-70.
Abstract:

> Discusses the theoretical bases, process, and functions of causal attributions. An evolutional view is presented. Attribution bias, the illusion of control, confirmatory attribution, and the effects of causal implications on memory are considered.

Personal hypothesis testing: The role of consistency and self-schema.
Strohmer, Douglas C., et al.
Journal of Counseling Psychology, Vol 35(1), Jan, 1988. pp. 56-65.
Abstract:

> We report the results of two experiments that examined the way individuals test hypotheses about themselves. Both experiments were based on the work of Snyder (e.g., Snyder, 1981; Snyder & Skrypnek, 1981), which suggests that individuals have a **confirmatory bias** when testing hypotheses about others and about themselves. In Experiment 1, we examined the extent to which this **bias** toward confirmation persists when a negative (e.g., depression) or nonconsistent (not consistent with the individual's evaluation of him- or herself) personal hypothesis is tested. Results suggest that the negative or positive nature of a personal hypothesis does not directly influence the way individuals test their hypothesis. However, the way individuals tested personal hypotheses was influenced by hypothesis consistency. In Experiment 2, we examined the relation of a cognitive schematic variable (i.e., vulnerability for depression) and hypothesis testing. Results suggest that vulnerability is related to the way individuals test a personal hypothesis about depression. Vulnerable, low-depression participants were **confirmatory** when testing a depression hypothesis, whereas nonvulnerable, low-depression participants were disconfirmatory. We discuss implications for counseling and future directions for research.

Interrogators' Claims of Lie Detection

Findings from *Interrogation: A Review of the Science: High-Value Detainee Interrogation Group*, September 2016, p.33. Detecting deception is difficult for multiple reasons:

- There is an almost universal tendency to believe that gaze aversion is an indication of deception [5], whereas gaze aversion has never been shown to be a reliable indicator [6]. Various vocal cues (hesitations, pauses, speech errors, speech rate) and nonverbal cues (such as gaze aversion, self-adaptors, and fidgeting) are believed to be indicators of deception but are in fact unreliable cues [7].
- Professionals (i.e., police) are taught to use unreliable cues to deception. For example, police officers are taught that liars look away and make grooming gestures [8], and in two studies, 75% of the police officers queried endorsed these views [4,9], but such cues are, in fact, unrelated to deception [1]. In another study, police officers watching video clips of real police interviews performed worse the more they used the typically trained cues, and students trained on the police methods performed worse than untrained students [4,10].
- Training to detect deception based on nonverbal cues does not help. A recent meta-analysis of 30 research studies showed that training on how to detect deception produced only modest improvements in accuracy of deception detection [11,12].
- Signs of deception are likely to vary by culture, although the research on this is relatively recent and scarce [e.g., 13,14].
- Traditional deception detection has focused on nonverbal approaches. For example, the Behavioral Analysis Interview, common to U.S. law enforcement [8], relies on nonverbal and paralinguistic cues of the sort that deception research has shown to be unreliable [1].
- Micro-expressions – fleeting facial expressions expressed and then suppressed within 1/5th to 1/25th of a second [15] – while indicative of genuine emotions, have been found to have no reliable relationship to deception [16].
- Neurolinguistic Programming [NLP], which is neither neuroscience nor linguistic based, has been proposed as a way of helping an interrogator discern truth telling from lying in criminal interviews and interrogations [e.g., 17-20]. However, it lacks theoretical consistency and there is no substantive evidence of its validity and accuracy [21-23].

Pretext Phone Call

"*Pretext phone calls*" are also known as "*pretext*," "controlled," "*one party consent*," "*cold*," or "*confrontation*" calls (Davis & Villalobos, 2014; Eisenga, 1999; Livingston et al., 2019; Rutledge, 2020). The caller offers a pretext for the call that disguises the true intent of the call: which is to elicit incriminating admissions to support the prosecution and conviction of the suspect.

Deborah Davis, a leading researcher on false confessions, cautions:

> *Pretext calls are often effective in eliciting incriminating statements. The suspect may make an explicit admission to the alleged offenses. But if not, he may still make a variety of damaging statements. He may apologize, for example, which many perceive as a confession. As Davis, Rerick, and colleagues (2019) have shown, the more explicit the apology, the more likely it will be viewed as a confession of guilt. Even a vague apology such as a non-specific "I'm sorry" or "I'm sorry if I did anything to hurt you," is taken as a confession by some.*
>
> *. . . Many other statements can be seen as evidence of character flaws or weaknesses that might suggest the suspect would sexually abuse a child or rape an adult: such as admitting to drug or alcohol use, past or present therapy and others. Some may admit to circumstantial evidence: such as sleeping together in the same bed, or behaviors that might be regarded as grooming. But together, these many types of potentially incriminating or seemingly incriminating statements pose significant risks for the suspect. Even when the suspect might refuse to talk to police or fails to confess to police, the content of the pretext call can be sufficient to ensure conviction. But as happened with Hector, suspects are commonly interrogated by police shortly after the pretext call. The suspect's statements during the pretext call are then used against him in the interrogation.*
>
> Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick. *Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator*. Univ. of San Francisco Law Research Paper No. 2021-07. Last revised: 30 Jun 2021. pp.4-6

The Pretext Caller, the Interrogator, and Their Differences

Advantages for using the pretext caller:

- Legal limitations facing the police interrogators are circumvented.
- The pretext caller is known to the suspect and often is an object of love and affection. The suspect might make statements to satisfy the caller (repair attempts)
- Pretext callers are less constrained regarding the tactics they can deploy (threats and promises).

Disadvantages for using a pretext caller:

- The confession must contain elements to the crime in question (the act and criminal intent).
- The pretext caller can't make statements or ask questions of the subject that would seem strange and thereby alert the suspect to the rouse.

Similarities between the Pretext Caller and Interrogators

- Convince the suspect that the evidence firmly establishes his guilt.
- The suspect will obtain better legal and/or nonlegal outcomes.
- The need to elicit a comprehensive and detailed account to ensure conviction.
- Encourage a sense of hopelessness, which can include false evidence.
- Encourage fake "exoneration" options (polygraph or computerized voice stress analyzer [CVSA]).
- Use of maximization and minimization techniques

References

- Davis, D., Livingston, T. N., & Rerick, P. O. (2019). Effects of caller threats on suspect guilt ratings in a "pretext" phone call [Unpublished manuscript]. Department of Psychology, University of Nevada, Reno.
- Davis, D., Rerick, P. O., & Livingston, T. N. (2019). Does apology = confession? Perceptions of suspect apologies during “pretext” calls from an accuser [Unpublished manuscript]. Department of Psychology, University of Nevada, Reno.
- Davis, D. & Villalobos, J. G. (2014). Language and the law: Illustrations from cases of disputed sexual consent. In T. Holtgraves (Ed.), Handbook of Language and Social Psychology. Oxford: Oxford University Press.
- Eisenga, H. (1999). Using" pretext" phone calls in sexual assault investigations (No. 179946). San Diego Police Department Sex Crimes Unit.
- Livingston, T. N., Rerick, P. O., Villalobos, G., & Davis, D. (2019). Deception-induced confession: Strategies of police interrogators and their lay collaborators. In T. Docan-Morgan (Ed.), Handbook of deceptive communication (pp. 747-767). Palgrave.
- Rutledge, D. (2020) What are the legal principles that may apply to pretext calls? (Report No. 2020-07). Los Angeles County District Attorney’s Office.

Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator

Nadine Deslauriers-Varin & Craig Bennell, eds., Criminal Investigations of Sexual Offenses: Investigative Techniques and Operational Challenges (Springer, 2021)
Univ. of San Francisco Law Research Paper No. 2021-07
29 Pages Posted: 18 Nov 2020 Last revised: 30 Jun 2021

Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick
University of Nevada, Reno - Department of Psychology

Abstract

This chapter reviews the attempts of police to elicit confessions to child and adult sexual assault through standard police interrogation and through use of alleged victims or associates of alleged victim as surrogate interrogators. Specifically, we describe the use of “pretext calls” (otherwise known as “cold,” “controlled,” “one party consent,” or “confrontational” calls) made by victims or their associates at the behest of police. We describe commonalities and differences in the strategies employed by police interrogators and pretext callers, and the synergy between them. We further address reactions of suspects to each, as well as reactions of observers to admissions made in each context.

Investigative Interviewing (The PEACE Model)

Investigative interviewing is a non-coercive method for questioning victims, witnesses and suspects of crimes.[1] Generally, investigative interviewing "involves eliciting a detailed and accurate account of an event or situation from a person to assist decision-making".[2] This interviewing technique is ethical and research based, and it stimulates safe and effective gathering of evidence. The goal of an investigative interview is to obtain accurate, reliable and actionable information. The method aims at maximizing the likelihood of obtaining relevant information and minimize the risks of contaminating evidence obtained in police questioning. The method has been described as a tool for mitigating the use of torture, coercion and psychological manipulation, and for averting forced confessions and errors of justice leading to wrongful convictions and miscarriages of justice.[3]

The term *investigative interviewing* was introduced in the UK in the early 1990s to represent a shift in police interviewing away from a confession-oriented approach and towards evidence gathering. Traditionally, the main aim of an interrogation was to obtain a confession from a suspect in order to secure a conviction. Thus, investigative interviewing contrasts pervasive interrogations techniques aimed at making the suspect break down and confess.[4] The stark difference between these two approaches to police interviewing has led some authors to argue that the term "interrogation" should be scrapped altogether as it is inherently coercive and aimed at obtaining a confession.[5]

Much of the scientific base of investigative interviewing stems from social psychology and cognitive psychology, including studies of human memory. The method aims at mitigating the effects of inherent human fallacies and cognitive biases such as suggestibility, confirmation bias, priming and false memories. In order to conduct a successful interview the interviewer needs to be able to (1) create good rapport with the interviewee, (2) describe the purpose of the interview, (3) ask open-ended questions, and (4) be willing to explore alternative hypotheses.[6] Before any probing questions are asked, the interviewees are encouraged to give their free, uninterrupted account.

In the interim report dated 5 August 2016 to the UN General Assembly of the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, the investigative interviewing method is presented at length as an example of best practice.[7]

United Kingdom

The PEACE model (Preparation and Planning, Engage and Explain, Account, Closure and Evaluate) for police interviewing was developed in the United Kingdom in response to a number of documented forced confessions and associated wrongful convictions in the 1980's and 90's. Most notable were the cases associated with the conflict (the Troubles) in Northern Ireland, and terrorism, such as the Birmingham Six and Guildford Four-cases.

Norway

Investigative interviewing was adapted by the Norwegian police in 2001.[8] The acronym used for the training program for the Norwegian police is KREATIV, and is composed of phrases reflecting the values and principles the method is based upon. Professor Ray Bull and DCI David Murthwaite (Merseyside Police) were brought from the UK to Norway to help train the trainers and initiate the program. A module on how and when evidence should be disclosed during interviews with suspects was included, distinguishing it from the PEACE method.

New Zealand

The New Zealand Police published a practical tool and a compilation of literature on investigative interviewing in 2005[9] and underwent reforms to investigative interviewing both in policy and practice from 2007.[10]

References

1. *Milne, Rebecca and Rull, Ray (1999). Investigative Interviewing. Psychology and Practice. Chichester UK: Wiley.*
2. *"Centre for Investigative Interviewing". This definition has been used by the Centre for Investigative Interviewing, Australia. Retrieved 15 January 2020.*
3. *Rachlew, Asbjørn. "From interrogating to interviewing suspects of terror: Towards a new mindset". 14th March 2017. Penal Reform International.*
4. *Gudjonsson, Gisli H. (2007). Investigative interviewing. Handbook of criminal investigation. Routledge. pp. 466–492. ISBN 9781843921882.*
5. *Griffiths, Andy, and Asbjørn Rachlew (2018). From interrogation to investigative interviewing: The application of psychology. In The Psychology of Criminal Investigation. Routledge. pp. 154–178.*
6. *Powell, Martine B., Ron P. Fisher, and Rebecca Wright (2005). Investigative Interviewing in Psychology and Law: An Empirical Perspective. The Guilford Press. pp. 11–42.*
7. *Méndez, Juan E. "Torture and other cruel, inhuman or degrading treatment or punishment. Interim report to the UN General Assembly. 5 August 2016". digitallibrary.un.org. UN. Retrieved 15 January2020.*
8. *Fahsing, I. A., & Rachlew, A. (2013). Investigative interviewing in the Nordic region. In International developments in investigative interviewing. Willan. pp. 65–91.*
9. *Schollum, Mary (2005). "Investigative interviewing: The literature. Wellington, New Zealand" (PDF). Office of the Commissioner of Police. Retrieved 15 January 2020.*
10. *Westera, Nina J., Rachel Zajac, Deirdre A. Brown (2017). Witness interviewing practices in New Zealand. In International Developments and Practices in Investigative Interviewing and Interrogation. Volume 1: Victims and witnesses. London: Routledge. pp. 123–134.*

PEACE Interviewing Technique

INTERROGATION TECHNIQUES

By: James Orlando, Associate Attorney
OLR Research

Two alternative interrogation techniques are (1) Preparation and Planning, Engage and Explain, Account, Closure and Evaluate (PEACE), a less confrontational method used in England, and (2) the Kinesic Interview, a method that focuses on recognizing deception.

PEACE METHOD

In England, police generally use a less confrontational interview and interrogation method than is used in the United States. The method is called Preparation and Planning, Engage and Explain, Account, Closure and Evaluate (PEACE). Under the PEACE method, investigators allow a suspect to tell his or her story without interruption, before presenting the suspect with any inconsistencies or contradictions between the story and other evidence. Investigators are prohibited from deceiving suspects during an interview (Meissner et al., 11).

The following information on the steps to the PEACE method is drawn from Authorised Professional Practice (APP), a national body of guidance on policing in the United Kingdom. For more detailed information, see their website.

1. Preparation and Planning. Interviewers should create a written interview plan, focusing on issues such as the objectives of the interview and the order of interviews. Among other things, the plan should include the time a suspect has been in custody, the topics to be covered, and points necessary to prove the offense or provide a defense. Interviewers should consider characteristics of the interviewee that could be relevant to the plan (e.g., cultural background could affect how someone prefers to be addressed). Interviewers may need to consider practical arrangements, such as visiting the scene or the location of the interview.

2. Engage and Explain. The interviewers should engage the individual, including using active listening to establish a rapport with him or her. The interviewers should

explain the reasons for the interview and its objectives. They should also explain routines and expectations of the process (e.g., explaining that the interviewers will take notes). Interviewers should encourage the individual to state anything they believe is relevant.

3. Account. The interviewers should use appropriate questions and active listening to obtain the interviewee's account of events. Questions should be short and free of jargon, and can help to clarify and expand the account. Multi-part questions should generally be avoided due to possible confusion, and leading questions should be used only as a last resort.

4. Closure. This stage should be planned to avoid an abrupt end to the interview. Among other things, the interviewers should summarize the person's account of events, allowing the person to make clarifications and ask questions.

5. Evaluate. The interviewers should evaluate the interview to (a) assess how the interviewee's account fits with the investigation as a whole, (b) determine if further action is needed, and (c) reflect on their performance.

KINESIC INTERVIEW

The Kinesic Interview method involves analyzing a person's behavior to assess deception. The method has some similarities to the Reid Technique.

Kinesics is the study of nonverbal communication. One author, Stan B. Walters, describes two phases to this process: the "Practical Kinesic Analysis Phase" and the "Practical Kinesic Interrogation Phase."

During the analysis phase, the interviewer uses several techniques to observe and analyze the subject's behavior "to determine the subject's truthful and deceptive behaviors or at least to determine those areas most sensitive to the subject and, therefore, in need of further attention through verbal inquiry" (Walters 3). Walters describes four fundamental stages of the interview: (1) orientation, (2) narration, (3) cross-examination, and (4) resolution (Id. at 25-29).

The investigator uses information gathered during the first phase to tailor interrogation for the specific subject. Walters describes the interrogator's task of "breaking the cycle of deception" during the interrogation; this includes confronting the suspect's negative-response emotional states (Id. at 209). Walters outlines different interrogation strategies for different personality types.

Walters describes over 30 practical kinesic principles to guide investigators in this process. The "first and most important" such principle is that "No single kinesic behavior, verbal or nonverbal, proves a person is truthful or deceptive" (Id. at 10). The other principles include both general statements of human behavior (people are better able to control verbal than nonverbal kinesic signals) and statements specifically focused on interview or interrogation techniques (to attack a denial, the investigator should review the real or circumstantial evidence with the subject every 3 to 5 minutes).

SOURCES AND ADDITIONAL INFORMATION

1. College of Policing, Authorised Professional Practice, Investigation: Investigative Interviewing, available at http://www.app.college.police.uk/app-content/investigations/investigative-interviewing/#peace-framework.
2. Gudjonsson, Gisli H. False Confessions and Correcting Injustices. 46 New Eng. L. Rev. 689 (Summer 2012).
3. Gudjonsson, Gisli H. The Psychology of Interrogations and Confessions: A Handbook (Wiley 2003).
4. Leo, Richard A. Why Interrogation Contamination Occurs. 11 Ohio St. J. Crim. L. 193 (Fall 2013).
5. Leo, Richard A. and Steven A. Drizin. The Three Errors: Pathways to False Confession and Wrongful Conviction, in Police Interrogations and False Confessions: Current Research, Practice and Policy Recommendations (G. Daniel Lassiter & Christian A. Meissner eds., 2010).

6. Meissner, Christian A. et al. Interview and interrogation methods and their effects on true and false confessions. Campbell Systematic Reviews (2012:2013), The Campbell Collaboration, available at www.campbellcollaboration.org/lib/download/2249/.
7. Moore, Timothy E. and C. Lindsay Fitzsimmons. Justice Imperiled: False Confessions and the Reid Technique. 57 Crim. Law Quarterly 509 (2011). available at http://www.cbc.ca/thenational/includes/pdf/CLQ-2.pdf.
8. O'Sullivan, M. et al. Police Lie Detection Accuracy: The Effect of Lie Scenario. 33 Law & Hum. Behav. 530 (2009).
9. John E. Reid and Associates, Inc. website: http://www.reid.com/.
10. Starr, Douglas. Do police interrogation techniques produce false confessions? The New Yorker (Dec. 9, 2013).
11. Walters, Stan B. Principles of Kinesic Interview and Interrogation, Second Edition. (CRC Press, 2003).

Memory-enhancing techniques for investigative interviewing: The cognitive interview.

Fisher, Ronald P. and Geiselman, R. Edward

Springfield, IL, England: Charles C Thomas, Publisher; 1992. xi, 220 pp.

Abstract:

Despite the obvious importance of eyewitness information in criminal investigation, police receive surprisingly little instruction on how to conduct an effective interview with a cooperative eyewitness (Sanders, 1986). . . . Reflecting this lack of formal training, police often maintain a less-than-rigorous attitude toward this phase of investigation. . . . It is not surprising, therefore, that police investigators often make avoidable mistakes when conducting a friendly interview and fail to elicit potentially valuable information. The intent of this book is to provide the police interviewer (INT) or any other investigative INT with a systematic approach so that he can elicit the maximum amount of relevant information from cooperative eyewitnesses (E/Ws).

The language of this book is couched in terms of police investigations, primarily because our research has been conducted with police participants. However, since the Cognitive Interview is based on general principles of cognition, it should be useful to anyone conducting an investigative interview, whether a police detective, fire marshal, state-, defense-, or civil attorney, private investigator, etc.

The Cognitive Interview has evolved over the past several years and reflects a multidisciplinary approach. We have relied heavily on the theoretical, laboratory research in cognitive psychology (hence the name 'Cognitive Interview') that we and other psychologists have conducted over the past thirty years. . . . The Cognitive Interview . . . is an eclectic approach, making use of ideas found across a variety of people, research approaches and disciplines.

From interrogation to investigative interviewing: Strategic trends in police questioning.

Williamson, Thomas M.

Journal of Community & Applied Social Psychology, Vol 3(2), Jun, 1993. pp. 89-99.

Abstract:

Assessed whether there was evidence of change in police culture indicating a growth in professionalism in the questioning of suspects. 80 detectives from 4 London police stations completed a questionnaire concerning their views on the legislative, technological, and organizational changes they had experienced. Four ideal interrogation styles were identified from a subjective analysis of tape-recorded interrogations: (1) collusive (cooperative, helpful, aimed at securing a confession); (2) counseling (nonjudgmental, unemotional, aimed at securing evidence); (3) business-like (factual, formal, aimed at securing evidence); and (4) dominant (confrontational, emotional, aimed at securing a confession). Most detectives have moved away from questioning purely to obtain a confession, toward questioning that is more of an inquiry, examining and adding to existing evidence.

Investigative interviewing: Recent developments and some fundamental issues.

Gudjonsson, Gisli H.

International Review of Psychiatry, Vol 6(2-3), 1994. pp. 237-245.

Abstract:

Reviews some fundamental issues about the nature, methods, and consequences of investigative interviewing by police of suspects, witnesses, victims, and complainants. Recent legal developments in England have led to improved protection for suspects

detained for interviewing as well as improved interviewing procedures and techniques. Emphasis is now on gathering information rather than obtaining confessions. It is argued that coercive and psychologically manipulative interviewing techniques can have negative consequences, including false confession, the undermining of public confidence in the criminal justice system, resentment and hostility among defendants, posttraumatic stress disorder (PTSD), and confessions being ruled inadmissible in court. There is a fine balance between facilitating the duties of the police to prevent and investigate crimes and answering the needs and protecting the rights of suspects and witnesses.

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

Towards understanding the effects of interviewer training in evaluating the cognitive interview.
Memon, Amina, et.al.
Applied Cognitive Psychology, Vol 8(7), Dec, 1994. pp. 641-659.
Abstract:

Examined the effects of cognitive interview (CI) training using experienced police officers with established interviewing styles. An armed robbery was staged, and information was elicited in witness interviews. The CI did not significantly increase correct recall but tended to produce more suppositions and errors. A qualitative analysis of interviewer behavior showed that many officers had difficulty in applying the new cognitive techniques and in avoiding the use of closed and leading questions. Results raise 2 issues: the training of experienced police officers who have received relatively little prior training in investigative interviewing, and second, the extent to which data from the laboratory data elicited in previous studies of CI can be generalized. (PsycInfo Database Record (c) 2020 APA, all rights reserved)

Interviewer behaviour in investigative interviews.
Memon, Amina, et.al.
Psychology, Crime & Law, Vol 3(2), 1996. pp. 135-155.
Abstract:

94 children (aged 8 and 9 yrs) viewed a magic show in small groups and were subsequently interviewed 2 days after the event, using either the Cognitive Interview (CI) or a Structured Interview (SI) technique (Time 1). After 12 days the children were reinterviewed (Time 2). Another group was interviewed only at Time 2. This paper examines individual differences in interviewers' questioning style, their use of the CI/SI techniques and the way such usage relates to witness performance in an interview. It was found that where the CI techniques

were used consistently and the interviewers probed extensively using open and closed questions, more correct and incorrect information was elicited. Implications for police training and future research on investigative interviewing are considered.

A field evaluation of training in three methods of witness/victim investigative interviewing.
Clifford, Brian R. and George, Richard
Psychology, Crime & Law, Vol 2(3), 1996. pp. 231-248.
Abstract:

Using serving policemen and policewomen with real-life witnesses/victims of crime, this study explored the relative merits of 3 training methods in investigative interviewing. Police personnel of 5 or more years' experience were trained in either the enhanced Cognitive Interview technique (CI), Conversational Management (CM), or a combination of both (CI + CM). The efficacy of these 3 forms of training was compared with an untrained (control) group of police, in a before–after design. The nature of the interviewers, behaviour (number, rate and type of questions asked) and the relative amounts of relevant information elicited before and after training were examined. 28 police were randomly allocated to 1 of the 4 conditions of training. It was found that the interview-behaviour of the CI-only trained officers changed much more than any of the other trained or control groups between pre- and post-training phases. These findings offer support for the ecological validity of the CI as a powerful investigative interviewing technique in eliciting potentially relevant information and strongly imply its superiority to CM in this regard. The finding that CI + CM did not produce the best result overall is discussed.

Specialist training in investigative and evidential interviewing: Is it having any effect on the behaviour of professionals in the field?
Powell, Martine B.
Psychiatry, Psychology and Law, Vol 9(1), Apr, 2002. pp. 44-55.
Abstract:

Provides a summary of the essential elements of an investigative or evidential interview. This is followed by a review of research relating to the effectiveness of training programs for forensic interviewers and the factors that are needed to promote the use of appropriate questioning techniques. Finally, this article offers recommendations for future research and for the revision of existing training programs in forensic interviewing.

A Bu nözői Profilalkotástól a Tanúkihallgatásig: Törekvések a Mai Kriminálpszichológiában.
Translated Title:
From Offender Profiling to Investigative Interviewing: New Approaches in Recent Criminal Psychology.
János, Boros
Magyar Pszichológiai Szemle, Vol 58(2), 2003. pp. 275-292.
Source Title Translation:
Hungarian Journal of Psychology
Abstract:

The past 20 years have seen such essential improvements in legal psychology that fundamentally changed our traditional thinking of way about criminal psychology. The initial approach, focused on the psychological explanation of criminal behavior, the role of expert at the court, the problem of prisoner rehabilitation, extensively and intensively increased in the said period. Especially in western countries application of psychology has gained general acceptance in each face of the justice system (investigation, interviewing, decision-making at the court, punishment enforcement), and in the process several major issues have become also highlighted such as the psychology of victims, attitude toward

crime, psychological approach of crime prevention. This study deals with some theoretical questions of criminal psychology and 2 topics of the psychology of criminalistics: offender profiling and a new method of investigative interviewing, the cognitive interview. (PsycInfo Database Record (c) 2020 APA, all rights reserved)

The Youth Justice and Criminal Evidence Act 1999 and the interviewing of vulnerable groups: A practitioner's perspective.

Nield, Roger, et.al.

Legal and Criminological Psychology, Vol 8(2), Sep, 2003. pp. 223-228.

Abstract:

The purpose of this article is to discover practitioners' appreciation of the legislative changes that the Youth Justice and Criminal Evidence Act 1999--largely implemented in 2002-- will have on investigative interviewing of vulnerable groups. Police officers and social workers completed a questionnaire that asked about their perceptions of the Youth Justice and Criminal Justice Act 1999. Practitioners thought that a large number of interviewees would be eligible for the special measures allowed within the remit of the new act. It was believed that the act would result in achieving best evidence with respect to accuracy and recording of interviews and in less discrimination against vulnerable groups. However, it was also believed that implementing the act would be demanding in terms of time and money. Police officers and social workers share positive and negative views concerning the implementation and efficacy of the new legislation.

An Ultimate Understanding of Interrogations and Confessions.

Cherryman, Julie

Applied Cognitive Psychology, Vol 18(6), Sep, 2004. pp. 784-786.

Abstract:

Aimed primarily at a wide-ranging variety of practitioners working in investigative interviewing, The Psychology of Interrogations and Confessions: A Handbook (see record 2003-04147-000) is an important addition to the bookshelves of academics researching and teaching this and related topics. Police officers may, of course, be especially interested in this handbook and, although Gudjonsson cautions that this is at a policy level rather than as a training manual, police trainers will find a host of information to support their training in investigative interviewing of suspects. Separated into four sections (Interrogations and confessions; Legal and psychological aspects; British Court of Appeal cases; and Foreign cases of disputed confessions, complete with Gudjonsson's overview of the sections) this handbook brings together the vast published work of Gudjonsson and his colleagues and provides a critique of most published work on investigative interviewing of suspects and on confessions. Overall, the reader is provided with a thorough overview of the whole topic of interrogations and confessions, with an emphasis on false confessions. Throughout the whole of the book, there is critical discussion regarding limitations of the author's research. The underpinning psychological theory is outlined and the applied examples do indeed provide a comprehensive handbook on the topic of interrogations and confessions.

Investigative Interviewing.

Powell, Martine B., Fisher, Ronald P., Wright, Rebecca

Psychology and law: An empirical perspective. Brewer, Neil, (Ed); Williams, Kipling D., (Ed); pp. 11-42; New York, NY, US: The Guilford Press; 2005. xii, 516 pp.

Abstract:

There is strong international consensus about which interviewing skills are most responsible for eliciting extensive, accurate accounts. Two of the most critical skills are (1) the use of open-ended questions, and (2) refraining from the use of closed and/or specific leading questions. The first section of this chapter provides a brief summary of the four

central areas of agreement among the protocols and provides a rationale for the importance of each element. Practical recommendations and further reading are also provided. In the second section of this chapter, we review research regarding the effectiveness of investigative interviewers in adhering to best-practice guidelines. Furthermore, we describe the elements of professional training programs that are likely to maximize the ability of investigative interviewers to adhere to these guidelines.

Towards greater professionalism: Minimizing miscarriages of justice.
Williamson, Tom
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 147-166; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

In this chapter, the author draws on research showing the correlation between the weight of evidence in the case and the outcome of the interview with a suspect. A set of ethical principles for investigative interviewing is described, together with an introduction to the PEACE model of investigative interviewing now being taught in England and many other countries. Miscarriage of justice cases in several countries are examined and many commonly recurring contributing factors are identified, including 'tunnel vision'. Williamson concludes by arguing for sound, scientifically based training programmes and continuous professional development pathways leading to academic qualifications and 'licence to practice' regulations, as essential steps in professionalizing investigative interviewing.

Will it all end in tiers? Police interviews with suspects in Britain.
Griffiths, Andy and Milne, Becky
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 167-189; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

This chapter is based on an analysis of the performance of police officers who received training in advanced investigative interviewing. It demonstrates that the skills acquired on the course were maintained in the workplace. A model of analyzing interviews, the Griffiths Question Map, is described.

The Reid Technique of interviewing and interrogation.
Buckley, Joseph P.
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 190-206; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

Probably the most popular interviewing and interrogation training course in the world is presented in this chapter. Joseph P. Buckley describes the programme and discusses recent developments to take account of concerns regarding some aspects of the methodology. He demonstrates that the model operates within the jurisprudence currently established by the higher courts in Canada and the USA.

A critical appraisal of modern police interrogations.
Kassin, Saul M.
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 207-228; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

Saul M. Kassin examines contemporary interrogation practices in the USA and in particular provides a critical analysis of the Reid technique. By drawing on recent case studies, he shows that the dangers of false confessions have been underestimated.

Investigative interviewing and the detection of deception.
Frank, Mark G., et.al.
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 229-255; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

The detection of deception is a subject that has been studied by psychologists, and this is addressed in this chapter by Mark G. Frank, John D. Yarbrough and Paul Ekman. The authors describe a model of investigative interviewing and, in particular, examine the psychology of emotion and facial micro-expressions of emotion.

Investigative interviewing: Suspects' and victims' rights in balance.
Roy, Robert
Investigative interviewing: Rights, research, regulation. Williamson, Tom, (Ed); pp. 292-317; Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

This chapter is based on extensive research in Canada and Switzerland of the ethical challenges faced by investigators in trying to obtain information through questioning. A methodology based on applied ethics is used to consider how investigative interviewing can best be regulated. It considers the influence of rules and concludes that they are insufficient, as rules cannot be developed to cover every eventuality. Instead, there is a need to develop processes that improve the exercise of moral judgment by investigators. Using custodial interviewing as a case study, a set of ethical criteria is developed, including when and where deception can be used. The chapter concludes that legislation should be considered to prevent a miscarriage of justice occurring whereby the guilty in serious cases go free if society is to achieve a better balance between the rights of suspects and those of victims.

The psychological vulnerabilities of witnesses and the risk of false accusations and false confessions.
Gudjonsson, Gisli H.
Witness testimony: Psychological, investigative and evidential perspectives. Heaton-Armstrong, Anthony, (Ed); Shepherd, Eric, (Ed); Gudjonsson, Gisli, (Ed); Wolchover, David, (Ed); pp. 61-75; New York, NY, US: Oxford University Press; 2006. xlvii, 449 pp.
Abstract:

'Investigative interviewing' is an important form of evidence gathering. The principal objective is to obtain information that is detailed, complete, comprehensible, valid (in legal settings the words 'safe' and 'reliable' are commonly used to describe validity), and relevant to the legal issues in the case that need to be established and proved. A number of governmental and local agencies are involved in conducting investigative interviews, including the police, Customs and Excise, the military and the security services. Interviewing also occurs in other settings, such as mental health and organisational settings. However, the focus in this chapter is on investigative (police) interviews in relation to 'vulnerable' people. Obtaining a clear and reliable account of events from witnesses, victims and suspects is important in order to achieve a sound conviction and avoid a miscarriage of justice. Witnesses do sometimes give false or misleading evidence, even when motivated to tell the truth. Similarly, self-incriminating statements from suspects, even when false, do on occasions result in a wrongful conviction. It is often assumed that persons who suffer from mental disorder lack the capacity and motivation to give an accurate, complete and reliable account of events. This unfounded view was well highlighted during the Ashworth Inquiry, where the evidence of psychiatric patients about alleged ill-treatment and improper care was challenged by the defendants on the basis of

the patients' mental status and their inherent lack of credibility as witnesses. In this chapter the potential psychological vulnerabilities of persons with mental disorder are set out and it is argued that mental disorder on its own does not usually undermine the credibility of witnesses when interviewed by the police or when giving evidence in court. What is needed is a proper identification of mental problems and other psychological vulnerabilities and an explanation of how these factors may influence the reliability of the witness's account to the police and evidence in court. This is what the present chapter aims to do.

Investigative interviewing: Rights, research, regulation.
Williamson, Tom, (Ed).
Devon, United Kingdom: Willan Publishing; 2006. xxi, 370 pp.
Abstract:

At a time of increased threat of terrorist violence democracies have struggled to achieve a satisfactory balance between the needs of the state and respect for human rights, and in many areas traditionally recognized rights have been under threat. Nowhere has the dilemma been more evident than in the questioning of suspects by police and security agencies. The objective of this book is to review the position of investigative interviewing in a variety of different countries, with different types of criminal justice systems, with contributions from leading authorities in the field, both academics and practitioners. A wide range of often controversial questions is addressed, including issues raised by the treatment of detainees at Guantanamo Bay; the effectiveness of ethical interviewing; investigative interviewing and human rights; the Reid model for interviewing; responses to miscarriages of justice; the role of legislation in preventing bad practice and the importance of effective regulation in promoting good practice; and the likely future of investigative interviewing. The book also makes comparisons between British and American approaches to detention without trial, and the role of confession evidence within adversarial legal systems. It develops a set of proposals to promote humane and effective methods of questioning that minimize the risks of miscarriages of justice, irrespective of jurisdiction. It will be essential reading not only for those with an interest and concern with investigative interviewing itself but in the dilemmas and the challenges facing the police and other security agencies in the twenty-first century.

Interviewing suspects of crime.
Parent Book Series:
Wiley series in the psychology of crime, policing and law
Hill, Carole and Memon, Amina.
Offenders' memories of violent crimes. Christianson, Sven Å., (Ed); pp. 237-258; New York, NY, US: John Wiley & Sons Ltd; 2007. xvii, 380 pp.
Abstract:

In order to solve criminal investigations it is essential that police officers gather as much information and evidence as possible so that they can determine how and why the crime occurred, and who committed the crime. One of the most valuable tools used by police officers when gathering evidence in criminal investigations is the investigative interview. With regards to the investigative interviewing of suspects, the techniques used during the interview phase of an investigation have changed markedly over the last century. This chapter will review these changes in interview techniques and will focus in particular on current interviewing practices in Britain and America. The chapter will also review research examining investigator bias, a presumption that a suspect is guilty and how this can impact on the subsequent investigation.

Interrogations and confessions.
Parent Book Series:

Wiley series in the psychology of crime, policing and law
Gudjonsson, Gisli H.
Offenders' memories of violent crimes. Christianson, Sven Å., (Ed); pp. 259-278; New York, NY, US: John Wiley & Sons Ltd; 2007. xvii, 380 pp.

Abstract:

The term 'interrogation' is generally used in the literature and in police practice to refer to the questioning of criminal suspects, typically involving a confrontation, whereas the term 'interviewing' is more commonly used in cases of witnesses and victims. Williamson (1993) has proposed the term 'investigative interviewing' to cover both the interviewing of witnesses and suspects. However, in this chapter the term 'interrogation' will be used, as the focus is specifically on the interrogation of suspects for the purpose of potential police prosecution. Here confessions are often crucial in securing a conviction. It is therefore not surprising that interrogators have traditionally focused on obtaining confessions rather than merely gathering information. In this chapter the author will discuss the nature of confessions in the area of criminal justice, review the relevant theories and empirical evidence and show how interrogation can go wrong in terms of producing false confessions.

Tackling ecological validity: Conducting observations in a police-suspect interview.
Gozna, Lynsey
Issues in Forensic Psychology, No 6, 2007. pp. 57-63.

Abstract:

Interviewing suspects is a challenging and complex endeavour but a crucial aspect of any criminal investigation. However, little research within the fields of investigative interviewing or deception has been conducted that considers the environment as the basis for increasing the effectiveness of credibility assessment and its contribution to the overall decision-making process. The interactions between interviewing officers and suspects can potentially impact on the way in which the surrounding evidence is perceived in the investigation. This paper will discuss research that has attempted to unravel the strategies utilised by suspects during an interview and provide a more ecologically valid approach to credibility assessment with the focus on the applied setting. The logistics of conducting research in the challenging setting of the police interview environment and the implications of the findings from our observational research of high volume crime suspect interviews will also be discussed.

Assessment Criteria Indicative of Deception (ACID): An integrated system of investigative interviewing and detecting deception.
Colwell, Kevin, et.al.
Journal of Investigative Psychology and Offender Profiling, Vol 4(3), Oct, 2007. pp. 167-180.

Abstract:

This study describes the assimilation and validation of Assessment Criteria Indicative of Deception (ACID). ACID is derived from investigative interviewing, Criteria-Based Content Analysis, Reality Monitoring, and interpersonal deception. Each component has been previously published. Thirty-eight university undergraduates entered a professors office and either stole an exam or replaced an exam that had been stolen previously. They were interviewed 1 week later with the Reality Interview, which is deliberately challenging and aims to enhance the detection of deception. Half responded honestly and completely; half distorted their responses to avoid incrimination. Incentives were provided. Honest responses were longer, more detailed, and contained more admissions of potential mistakes. Most importantly, honest respondents benefited from attempts to enhance recall, whereas these same attempts caused deceptive respondents to provide shorter, more

repetitive statements. This is a promising technique; 33 of 38 cases were classified accurately. Discussion includes characteristics of deception, process of deception during an investigative interview, hypothetical interview strategies to facilitate the detection of deception, strengths and weaknesses of the study, and areas for future research.

Investigative interviewing: The role of research.

Milne, Becky, et.al.

Applying psychology to criminal justice. Carson, David, (Ed); Milne, Rebecca, (Ed); Pakes, Francis, (Ed); Shalev, Karen, (Ed); Shawyer, Andrea, (Ed); pp. 65-80; New York, NY, US: John Wiley & Sons Ltd; 2008. xiv, 314 pp.

Abstract:

Interviewing is at the heart of any police investigation and thus is the root of achieving justice in society. This is because there are two key aims underpinning any investigation and these are to (1) find out what happened, and if anything did happen (2) to discover who did what. In order to answer these two primary investigative questions investigators need to gather information and invariably the source of the information is a person (e.g. witness, victim, suspect, complainant, first officer at the scene of a crime, emergency services, experts, etc.). Thus, one of the most important tools in an investigator's tool box is the interview. As a result, since the mid-1980s, practitioners and researchers have sought, and in some countries have substantially succeeded, in developing procedures that improve the quality of interviews of witnesses, victims and suspects of crime. These new procedures have been the outcome of the interplay between academic research and practical policing. Police interviewing in the UK has seen great advances since the 1980s. Undoubtedly, the most influential piece of legislation which forced the police service to examine its interviewing practices was the Police and Criminal Evidence Act 1984. This groundbreaking piece of legislation dictated that all interviews with those suspected of crime be recorded and thus for the first time allowed the mystery that was the police interview to come into the limelight and be examined in all its glory by senior police officers, academics and courts alike. This chapter aims to outline these developments regarding investigative interviewing and the role research has had within them.

Interviewing suspects.

Holmberg, Ulf and Kronkvist, Ola.

Forensic psychology. Davies, Graham M., (Ed); Hollin, Clive R., (Ed); Bull, Ray, (Ed); pp. 113-132; New York, NY, US: John Wiley & Sons Ltd; 2008. xxiii, 348 pp.

Abstract:

Obviously, one of the most important parts of a crime investigation, the interview with the suspect, may be conducted and experienced in different ways and in this chapter the authors will discuss different kinds of police interview. As an introduction, the authors start by examining the recommendations found in interrogation manuals. This throws light on the confession culture, the assumption that most suspects are liars and the emphasis upon psychologically coercive tactics. The next section describes the effects on a police officer's behavior while interrogating and questioning a suspect according to the guidance embodied in such manuals. One possible consequence of a confession-seeking interrogation is a false confession and the impact of this, as well as other explanations as to why some people falsely confess to a crime, will be discussed in the third part. Finally, the authors take a step from interrogation to investigative interviewing and give an account of what research has found regarding interviewing suspects. In other words, what could work from a human rights perspective that could also increase a suspect's readiness to talk (with the added hope that this might be a first step toward rehabilitation and a life without crime).

The cognitive interview: Inexperienced police officers' perceptions of their witness/victim interviewing practices.

Dando, Coral, et.al.

Legal and Criminological Psychology, Vol 13(1), Feb, 2008. pp. 59-70.

Abstract:

Purpose: The primary objectives of the study reported here were twofold. First, to investigate less experienced frontline police officers' perceptions of their witness interviewing practices with specific reference to their use of the ten cognitive interview components taught during initial PEACE (a mnemonic for the stages of the interview; Planning and preparation, Engage and explain, Account, Closure and Evaluation) interview training. Second, to investigate this group of officers' practical experiences of interviewing witnesses. Method: A sample of 221 young, in-service, non-specialist police officers from five UK police forces completed a self-report questionnaire concerning their perceived witness interviewing practices. Respondents were surveyed about their use of the PEACE cognitive interview components, their practical experiences of interviewing witnesses and victims, and their views on investigative interviewing training. Results: There was a consensus among these officers that they perceived using some of the PEACE cognitive interview components more frequently and perceived some of them to be more effective than others. Conclusion: This study provides a unique insight into the perceived interviewing practices of some of the least experienced and the least trained investigative interviewers who conduct the majority of frontline witness interviews. These officers report feeling inadequately trained, under pressure and generally ill equipped to conduct a PEACE cognitive interview. (PsycInfo Database Record (c) 2020 APA, all rights reserved)

Cognitive interviewing.

Dando, Coral J. and Milne, Rebecca.

Applied criminal psychology: A guide to forensic behavioral sciences. Kocsis, Richard N., (Ed); pp. 147-167; Springfield, IL, US: Charles C Thomas Publisher, Ltd.; 2009. xx, 286 pp.

Abstract:

The cognitive interview (CI) is a multidisciplinary forensic interview technique concerned exclusively with the retrieval of information from memory. It is one of the most-researched and widely acknowledged interview procedures for enhancing eyewitness memorial performance and has been described as 'one of the most exciting developments in psychology in the last ten years' (Memon, 2000, p. 343). Indeed, the CI has been fundamental in shaping the prevailing approach to investigative interviewing in the United Kingdom, as well as many other countries (e.g. Australia, United States, and Canada). This chapter will commence by outlining the importance of witness information to the investigation of crime, followed by a brief introduction to some of the problems associated with police interviews prior to the formation of the CI. The CI procedure will then be described and the development process will be outlined, including a review of the relevant theory and empirical research. Finally, research pertaining to police officers' application of the procedure will be introduced.

A structured model for investigative interviewing of suspects.

van der Sleen, Jannie

Handbook of psychology of investigative interviewing: Current developments and future directions. Bull, Ray, (Ed); Valentine, Tim, (Ed); Williamson, Tom, (Ed); pp. 35-49; Wiley Blackwell; 2009. xix, 339 pp.

Abstract:

The author discusses recent psychological studies on obtaining a truthful statement when interviewing a suspect while also ensuring that the suspect does not make a (partly) false

confession. The author provides a structured model for investigative interviewing of suspects. The preparation of a questioning plan, the conducting of the interview, and limitations and advantages of the model are presented. Part of a questioning plan regarding the use of a car during a burglary is appended.

Finding false confessions.
van Koppen, Peter J.
Handbook of psychology of investigative interviewing: Current developments and future directions. Bull, Ray, (Ed); Valentine, Tim, (Ed); Williamson, Tom, (Ed); pp. 53-68; Wiley Blackwell; 2009. xix, 339 pp.
Abstract:

In many cases it is hard to assess whether a confession is false or not. And that is the problem I want to discuss in this chapter: after a confession has been made, how do we identify a false one? Several approaches are possible: 1) assessing the psychological characteristics of the suspect; 2) assessing the characteristics of the (series of) interviews and circumstances of detention; 3) assessing the content of the confession. I shall conclude that in some cases, under some circumstances, a false confession can be distinguished from a true one. For that purpose, the content of the confession is more valuable than the other two approaches.

Major Crime (Investigative Powers) Act 2004: The chief examiner and coercive powers.
Maguire, Damien B.
Handbook of psychology of investigative interviewing: Current developments and future directions. Bull, Ray, (Ed); Valentine, Tim, (Ed); Williamson, Tom, (Ed); pp. 109-119; Wiley Blackwell; 2009. xix, 339 pp.
Abstract:

The topic of this chapter is the Major Crime (Investigative Powers) Act 2004, the Chief Examiner and Coercive Powers. In the course of the chapter I shall outline the circumstances in which this legislation came to be implemented, explain how the legislation operates and share my views as to what part the legal profession should play in representing witnesses in the 'coercive powers' examination hearing process.

The cognitive interview: Research and practice across the lifespan.
Authors:
Holliday, Robyn E., et.al.
Handbook of psychology of investigative interviewing: Current developments and future directions. Bull, Ray, (Ed); Valentine, Tim, (Ed); Williamson, Tom, (Ed); pp. 137-160; Wiley Blackwell; 2009. xix, 339 pp.
Abstract:

This chapter will focus on vulnerable witnesses—children under the age of 16 years, adults aged 65 years and over, and children and adults with intellectual impairments. In such cases, it is crucial that these witnesses are interviewed as sensitively as possible so that the information that is reported is accurate and reliable. A number of factors determine the reliability of witness testimony. This chapter is concerned with one of those factors, investigative interviews. The manner in which a witness is interviewed is crucial for criminal investigations and successful prosecutions. This chapter will focus on a set of forensic interviewing techniques which have been tested extensively, namely the original Cognitive Interview (CI) protocol (Geiselman, Fisher, Firstenberg, Hutton, Sullivan, Avetissian & Prosk, 1984) and its revision (Fisher & Geiselman, 1992). First, we shall describe the original CI and the theoretical principles on which the CI techniques are grounded. This will be followed by empirical research presented chronologically, beginning with young children through to old age. We then consider the viability of CI

techniques with learning disabled children and adults, and cognitively impaired older adults. We shall conclude with a discussion of the state of play in CI research and practice in the twenty-first century—promising applications of CI research with suspects (Fisher & Perez, 2007; Fisher & Castano, 2008), and progress on the development of shortened Cognitive Interviews for use with children and older adults.

Investigative interviewing and memory: How accurate are interviewers recollections of investigative interviews?

Gregory, Amy Hyman

Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 70(11-B), 2009. pp. 7246.

Abstract:

Contrary to interviewing guidelines, a considerable portion of witness interviews are not recorded. Investigators' memory, their interview notes, and any subsequent interview reports therefore become important pieces of evidence; the accuracy of interviewers' memory or such reports is therefore of crucial importance when interviewers testify in court regarding witness interviews. A detailed recollection of the actual exchange during such interviews and how information was elicited from the witness will allow for a better assessment of statement veracity in court. Two studies were designed to examine interviewers' memory for a prior witness interview. Study One varied interviewer note-taking and type of subsequent interview report written by interviewers by including a sample of undergraduates and implementing a two-week delay between interview and recall. Study Two varied levels of interviewing experience in addition to report type and note-taking by comparing experienced police interviewers to a student sample. Participants interviewed a mock witness about a crime, while taking notes or not, and wrote an interview report two weeks later (Study One) or immediately after (Study Two). Interview reports were written either in a summarized format, which asked interviewers for a summary of everything that occurred during the interview, or verbatim format, which asked interviewers to record in transcript format the questions they asked and the witness's responses. Interviews were videotaped and transcribed. Transcriptions were compared to interview reports to score for accuracy and omission of interview content. Results from both studies indicate that much interview information is lost between interview and report especially after a two-week delay. The majority of information reported by interviewers is accurate, although even interviewers who recalled information immediately after still reported a troubling amount of inaccurate information. Note-taking was found to increase accuracy and completeness of interviewer reports especially after a two week delay. Report type only influenced recall of interviewer questions. Experienced police interviewers were not any better at recalling a prior witness interview than student interviewers. Results emphasize the need to record witness interviews to allow for more accurate and complete interview reconstruction by interviewers, even if interview notes are available.

A modified cognitive interview procedure for frontline police investigators.

Dandoo, Coral, et.al.

Applied Cognitive Psychology, Vol 23(5), Jul, 2009. pp. 698-716.

Abstract:

The current investigative interviewing model for police officers in England and Wales recommends the use of the cognitive interview (CI). However, there is much to suggest that police officers do not regularly fully apply the procedure and that when they do, it is often poorly applied. Research has indicated that this is particularly the case with non-specialist police investigators who believe the CI is too cumbersome, complex and time consuming for the types of witness interviews they conduct. With this in mind the present

study investigated a CI procedure that had been substantially modified in an attempt to enhance its forensic practicability while retaining the demonstrated superiority of the CI. Employing the mock witness paradigm, the modified procedure was compared to both the current CI model and a structured interview (SI). Results revealed that the modified CI was more effective than the SI, while being as effective as the current CI, despite being significantly shorter in duration and, we argue, less demanding for the interviewer. Hence, the proposed modified CI may well be an effective practical alternative for frontline investigators.

Are you talking to me? Influencing behaviour and culture in police interviews.
Beune, Karlijn, et.al.
Psychology, Crime & Law, Vol 15(7), Sep, 2009. pp. 597-617.
Abstract:

This study examines the relationship between two types of influencing behaviour in police interviews (being kind and rational persuasion) and three types of interview effectiveness, i.e. the suspects' willingness to give a statement, their estimation of the quality of the relationship with the detective, and suspects' admission. We expected that being kind and rational persuasion (arguments referring to logic and rationality) would have a different effect on suspects from cultures that tend to be direct and content-oriented (low-context cultures) versus cultures in which communication is more indirect and context orientated (high-context cultures). To examine this, experienced police detectives interviewed mock theft suspects from low-context (n = 25) and high-context (n = 27) cultures. As predicted, and particularly for high-context suspects, being kind in terms of rewarding and offering was positively related to the perceived quality of the relationship of the suspect, while being kind in terms of active listening behaviour was positively related to admissions. Furthermore, and as expected, there was a positive relationship between rational persuasion of the police detective and admissions for low-context suspects, but also a negative relationship between rational persuasion and admissions for high-context suspects.

Four studies of what really happens in police interviews.
Parent Book Series:
Decade of behavior/Science conference grant
Bull, Ray and Soukara, Stavroula.
Police interrogations and false confessions: Current research, practice, and policy recommendations. Lassiter, G. Daniel, (Ed); Meissner, Christian A., (Ed); pp. 81-95; Washington, DC, US: American Psychological Association; 2010. xviii, 250 pp.
Abstract:

There exist rather few published studies of what actually takes place during police interviews with suspects. Only a proportion of this small sample has provided data concerning the various tactics and skills used by such interviewers, and almost no studies have examined the possible relationship between actual tactic and skill usage and the elicitation of confessions (but see Pearse & Gudjonsson, 1999). The present chapter describes four interrelated studies that provide a significant addition to this limited literature. These four studies were conducted several years after a very major initiative was undertaken in England and Wales to improve and change the way police conduct interviews with suspects, witnesses, and victims. We now present four interrelated studies that were designed to examine not only the extent to which interviewers' beliefs and interviewers' actual performance were in line the PEACE approach but also which aspects of their performance (e.g., tactics, skills) might relate to suspects giving a confession. Study 1 found that the views of experienced interviewers and detectives in England appeared to be in line with the new approach (referred to as investigative interviewing) and its evolving

training program (PEACE). One major aim of Studies 2 and 3 was to determine if actual police interviewing of suspects was in line with the philosophy behind investigative interviewing. These two studies found this to be the case to a considerable extent (e.g., the absence of oppressive coercive tactics), which clearly suggests that the PEACE approach can be accepted and used by police officers. However, some inappropriate tactics were used in a considerable number of interviews (e.g., leading questions, repeating the same questions, positive confrontation), although Clarke, Milne, and Bull (2009) found fewer leading questions. Studies 3 and 4 also had the major aim of trying to determine whether interviewer use of tactics and skills bore any relationship to the suspect confessing. Interviews largely using the noncoercive PEACE investigative interviewing approach still resulted in confessions. Contrary to what the limited previous research had found (e.g., Baldwin, 1993), most of the suspects who confessed did not do so very early on. This allowed, almost for the first time, examination of whether the interviewer's behavior influences confessing (as suggested by convicted persons in studies by Holmberg & Christiansson, 2002; Kebbell & Hurren, 2006). Of course, in our research studies it was not possible to determine whether use of the PEACE approach results in fewer false confessions.

Investigative interviewing.
Milne, Becky and Powell, Martine.
The Cambridge handbook of forensic psychology. Brown, Jennifer M., (Ed); Campbell, Elizabeth A., (Ed); pp. 208-214; New York, NY, US: Cambridge University Press; 2010. xxiv, 900 pp.
Abstract:

This chapter defines and describes investigative interviewing in criminal cases. Investigative interviewing is a method of communicating with anyone within the investigation process (be they witness, victim, suspect or the first police officer at the scene) in order to obtain the maximum quality of information. As a result, ethical investigative interviewing is at the heart of any police investigation and thus is the root of achieving justice in society. This is because there are two key aims underpinning any investigation and these are to (i) find out what happened, and if anything did happen (ii) to discover who did what. In order to answer these two primary investigative questions investigators need to gather information and invariably the source of the information is a person (e.g. witness, victim, suspect, complainant, first officer at the scene of a crime, emergency services, informant, experts and so on). Thus one of the most important tools in an investigator's tool box is the ability to interview. Investigative interviews conducted by police can vary greatly in purpose, scope and content (e.g. proactive and reactive investigations). Nevertheless, the common objective of all investigative interviews is to elicit the most accurate, complete and detailed account from an interviewee.

Interviewing suspects: Practice, science, and future directions.
Kassin, Saul M., et.al.
Legal and Criminological Psychology, Vol 15(1), Feb, 2010. pp. 39-55.
Abstract:

Crime suspects in the USA are typically questioned in a two-step process aimed, first, at behavioural lie detection during a pre-interrogation interview, followed by the elicitation of a confession during the interrogation itself (in Great Britain, the practice of investigative interviewing does not make this sharp distinction). Research conducted on the first step shows that police investigators often target innocent people for interrogation because of erroneous but confident judgments of deception. Research on the second step shows that innocent people are sometimes induced to confess to crimes they did not commit as a function of certain dispositional vulnerabilities or the use of overly persuasive interrogation

tactics. Citing recent studies, this paper proposes that laboratory paradigms be used to help build more diagnostic models of interrogation. Substantively, we suggest that the British PEACE approach to investigative interviewing may provide a potentially effective alternative to the classic American interrogation. As a matter of policy, we suggest that the videotaping of entire interrogations from a balanced camera perspective is necessary to improve the fact finding accuracy of judges and juries who must evaluate confession evidence in court.

Three things that should be used to guide investigative interviews by military and intelligence agencies.

DeClue, Gregory.

Journal of Psychiatry & Law, Vol 38(1-2), Spr-Sum 2010. Special Issue: Interrogations and confessions. pp. 251-262.

Abstract:

The psychological study of investigative interviewing is over 100 years old (Munsterberg, 1908), with a rich literature and body of knowledge (Drizin and Leo, 2004; Kassin, Drizin, Grisso, Gudjonsson, Leo, & Redlich, 2009). Although behavioral and social science has focused primarily on investigations by police, findings should also be considered by investigators who work for military or intelligence agencies. The state of the science leads to at least three recommendations. First, **all investigative interviews should be video-recorded in their entirety, with an equal focus on interviewers and interviewees**. Second, rather than seeing interrogation as a method to persuade or coerce an uncooperative subject into confessing, investigators should consider interviews of suspects, victims, witnesses, and sources as investigative interviews, with a common goal of finding the truth. Third, because investigators do not really know which interviewees are guilty (have guilty knowledge) and which are not (do not), no law-enforcement, military, or intelligence-agency interrogator should ever use a technique on a 'presumed-guilty' suspect that would not be appropriate for use with an innocent person.

Questioning suspects: A comparative perspective.

Dixon, David.

Journal of Contemporary Criminal Justice, Vol 26(4), Nov, 2010. pp. 426-440.

Abstract:

This article contrasts the ways in which English-speaking jurisdictions have responded to concerns about practices in the police interrogation of suspects. Since the mid-1990s, a stark contrast has developed between the methods taught to North American police officers via the 'Reid Technique' and similar U.S. training programs and the strategy of 'investigative interviewing' in England and Wales (and increasingly elsewhere in Europe and Australasia). This policy divergence must be understood in the context of differing responses to miscarriages of justice and investigative failures (caused, at least in part, by inefficient interrogation techniques) and the knowledge which inquiries into these miscarriages and failures produced. While investigative interviewing is part of a response to criminal process failure which sees both wrongful convictions and failed prosecutions as problematic, the United States has been slow to acknowledge the scale of a problem which has not only convicted (and executed) the innocent, but also failed to bring the guilty to justice. Drawing on empirical research in Australia, where audio-visual recording has been used routinely since the early 1990s, the article notes the limits and benefits of electronic recording, which too often is presented as a panacea. The article notes that most discussion of American interrogation takes place in an empirical vacuum and expresses doubts about the prevalent accounts of police practice. It also notes some recent interest in

the United States in alternative approaches to interrogating suspects which have developed from the experience of questioning terrorist suspects.

Miscarriages of justice: A call for continued research focussing on reforming the investigative process.
Poyser, Sam and Milne, Becky.
The British Journal of Forensic Practice, Vol 13(2), 2011. pp. 61-71.
Abstract:

Purpose: The purpose of this paper is to consider a major cause of miscarriages of justice worldwide, namely the police investigative and interviewing process. Design/methodology/approach: This phenomenon is examined through the lens of psychiatric and psychological research findings and subsequent recommendations that have made a significant impact in term of changes to legislation, policy, and practice in the UK. Findings: The paper shows that despite major improvements in this area in the UK there is still no room for complacency, as miscarriages of justice continue to occur both here and worldwide. Research limitations/implications: This paper calls for researchers to continue to identify the weaknesses in the police investigative and interview process and to propose reform based on their scientific findings. Originality/value: The paper highlights what remains a somewhat neglected piece of the investigative jigsaw, namely the interviewing of adult victims and witnesses, pinpointing this as an area where transparency and further research is required.

The importance of applied research in investigative interviewing: A real-life perspective.
Oxburgh, Gavin E., et.al.
Journal of Investigative Psychology and Offender Profiling, Vol 8(2), Jun, 2011. pp. 105-109.
Abstract:

The papers contained within the special issue represent some exciting innovations across different investigative bodies. In addition, all research presented has been conducted in the field. It is believed that such applied research, although often having methodological drawbacks, is of utmost importance in understanding the area from a holistic viewpoint. This special issue examines the role forensic psychology has had and is currently having in investigative interviewing in the real world.

Investigative interviewing of child sex offender suspects: Strategies to assist the application of a narrative framework.
Read, Julianne M. and Powell, Martine B.
Journal of Investigative Psychology and Offender Profiling, Vol 8(2), Jun, 2011. pp. 163-177.
Abstract:

Obtaining a narrative account from a suspect during an investigative interview is recommended in the literature as best practice. However, research shows that interviewers have difficulty adhering to this recommendation. This paper aims to provide police officers who interview sex offender suspects with suggestions that may assist them in the application of a narrative framework. Our approach involved individual in-depth interviews with experts (N = 16: police trainers, detectives, expert witnesses, defence barristers, and prosecutors) who were leaders in their relative fields, particularly in relation to interviews with sex offender suspects. Specifically, the experts were asked to talk about the process of interviewing and what constitutes a good interview with a sex offender suspect. Several strategies that may assist officers in adhering to a narrative framework were extracted through qualitative analysis of the data. These strategies are described under the following headings: letting the suspects answer the allegations put to them, transferring the locus of control to the suspect, adopting strategies to overcome emotional barriers to

reporting, and focusing on the relationship between the suspect and the victim. Directions for future research and training intervention are also discussed.

The effects of evidence on the outcome of interviews with criminal suspects.
Moston, Stephen and Engelberg, Terry.
Police Practice & Research: An International Journal, Vol 12(6), Dec, 2011. pp. 518-526.
Abstract:

Research suggests just over half of all suspects interviewed inside a police station will either confess or make damaging admissions. Surprisingly, police interviewing tactics appear to have only a limited effect on the decision making of suspects. Instead, the strongest predictor of a confession is the strength of evidence against the accused. This paper examines the links between strength of evidence and the outcome of interviews. Data is drawn from previously published studies of police interviewing practices in the USA, UK, and Australia. This review shows how when evidence is strong prior to questioning, such as a suspect having being found in possession of stolen goods, then confessions are the most likely outcome. However, some apparently strong forms of evidence, such as testimony from police officers, can be used inappropriately making confessions less likely. The findings are discussed in relation to training in investigative interviewing skills and investigative practices. The paper also identifies a need for research into the conditions which give rise to true confessions, as opposed to a contemporary focus on the conditions that can result in false confessions.

Review of The art of investigative interviewing.
Gravitz, Melvin A.
American Journal of Clinical Hypnosis, Vol 54(3), Jan, 2012. pp. 236-237.
Abstract:

Reviews the book, The art of investigative interviewing by C. L. Yeschke (2003). The author of this useful volume is a federal law enforcement officer with decades of experience in the conduct of numerous criminal investigations. His book is not directly related to hypnosis, as such, but its contents are most relevant to hypnosis professionals who conduct forensic interviews and evaluations. Yeschke outlines the preparation for the interview. He discusses attitude, curiosity, intuition, and the need for flexibility on the part of the professional. This book is highly recommended for readers of this journal who are involved in criminal cases. Despite the focus on crime, hypnosis professionals will find much that is relevant to their clinical specialty and interests.

Review of Police interrogations and false confessions: Current research, practice, and policy recommendations.
Cherryman, Julie.
Legal and Criminological Psychology, Vol 17(1), Feb, 2012. pp. 192-193.
Reviewed Item:
Lassiter, G. Daniel (Ed); Meissner, Christian A. (Ed). (2010) Police interrogations and false confessions: Current research, practice, and policy recommendations Washington: American Psychological Association, 280 pp. £70.95 1433807432 (Hardcover); 978-1433807435.
Abstract:

Reviews the book Police Interrogations and False Confessions: Current Research, Practice, and Policy Recommendations edited by G. Daniel Lassiter and Christian A. Meissner (see record 2009-19611-000). This book is a comprehensive account of Investigative Interviewing in the United States that leaves few stones unturned. This book is stimulating and gives hope for exciting changes to come in interviewing of suspects in the United States. Authors have provided a book that discusses investigative interviewing and false confessions from a number of perspectives. This makes the book essential reading for

academics and investigative interviewers alike. It is clear that there is great impetus for change but it seems unclear as to exactly how that change is going to manifest. The book in the afterword, states that 'other differences between Great Britain and the United States preclude the suggestion that a similar reform of the U.S. interrogation practices will have the same beneficial effects'.

Let 'em talk!: A field study of police questioning practices of suspects and accused persons.
Snook, Brent, et.al.
Criminal Justice and Behavior, Vol 39(10), Oct, 2012. pp. 1328-1339.
Abstract:

The real-life questioning practices of Canadian police officers were examined. Specifically, 80 transcripts of police interviews with suspects and accused persons were coded for the type of questions asked, the length of interviewee response to each question, the proportion of words spoken by interviewer(s) and interviewee, and whether or not a free narrative was requested. Results showed that, on average, less than 1% of the questions asked in an interview were open-ended, and that closed yes–no and probing questions composed approximately 40% and 30% of the questions asked, respectively. The longest interviewee responses were obtained from open-ended questions, followed by multiple and probing question types. A free narrative was requested in approximately 14% of the interviews. The 80–20 talking rule was violated in every interview. The implications of these findings for reforming investigative interviewing of suspects and accused persons are discussed.

The sins of interviewing: Errors made by investigative interviewers and suggestions for redress.
Yarbrough, John, et.al.
Applied issues in investigative interviewing, eyewitness memory, and credibility assessment. Cooper, Barry S., (Ed); Griesel, Dorothee, (Ed); Ternes, Marguerite, (Ed); pp. 59-95; New York, NY, US: Springer Science + Business Media; 2013. xxii, 349 pp.
Abstract:

This chapter examines the 'Sins of Interviewing' that were identified as a result of the collaboration between law enforcement professionals, mental health professionals, and academics. The 'Sins of Interviewing' were originally developed by the first author. The list of 'sins' started with a few and grew over time through experience and recommendations from mentors or associates, and all have since found empirical support. Fifteen sins are currently listed and they all have one variable in common: they detract from achieving the goal of an effective interview. That is, the goal of finding the truth—whatever it might be—and why the person believes it to be the truth. The 15 sins are not meant to be an exhaustive list, and the sins are not meant to be mutually exclusive. The listed sins simply reflect the most common errors committed by interviewers. The following describes these 15 sins and their causes, as well as practical solutions for overcoming them.

The role of rapport in investigative interviewing: A review.
Abbe, Allison and Brandon, Susan E.
Journal of Investigative Psychology and Offender Profiling, Vol 10(3), Oct, 2013. Special Issue: The detection of deception within investigative contexts. pp. 237-249.
Abstract:

Rapport often appears in training and discussions regarding investigative interviewing, yet very little empirical research has examined rapport systematically in law enforcement or intelligence settings. Using a model of rapport developed from therapeutic settings, we address in this paper the components of rapport and their relevance to investigative interviewing. Rapport can play a facilitating role in supporting the goals of an investigative

interview, to include developing a working alliance between interviewer and source, exercising social influence, and educing information from a source. A better understanding of how rapport develops in these contexts and its impact on interview outcomes would enhance the effectiveness of investigative interviewing. Research on rapport in the investigative interview would enhance our understanding of the interpersonal dynamics in these situations. We identify several gaps that such research should address, including the relationship between rapport and social influence and the development of rapport in multiparty interactions.

Cost and benefit of a new instruction for the cognitive interview: The open depth instruction.
Brunel, Maïté, et.al.
Psychology, Crime & Law, Vol 19(10), Nov, 2013. pp. 845-863.
Abstract:

The quality and the quantity of information recalled by eyewitnesses during a criminal investigation is of crucial importance. To increase the volume of details recalled during an interview, the cognitive interview recommends using various retrieval strategies to enhance recall. We tested a new retrieval instruction, the open depth (OD) instruction. The efficacy of this new instruction was assessed with the number of unit of information and the accuracy rate. We also assessed the cost-and-benefit of this new instruction with measures of repetition. Students watched a video of a simulated robbery and participated later in face-to-face interviews. In Study 1 (N = 60), the cognitive interview using the OD instruction increased recall compared to the interview using the change of perspective (CP) instruction, without affecting the accuracy rate. The redundancy rate was higher with the OD instruction than with the CP instruction. In Study 2 (N = 40), the OD instruction generated more new information without affecting the accuracy rate than the interview using motivated recall (MR) instruction. The repeated information to new information ratio was lower with the OD instruction than with the MR instruction. The advantages of the OD instruction for investigative interviewing purposes are discussed.

Strategic Use of Evidence during investigative interviews: The state of the science.
Hartwig, Maria, et.al.
Credibility assessment: Scientific research and applications. Raskin, David C., (Ed); Honts, Charles R., (Ed); Kircher, John C., (Ed); pp. 1-36; San Diego, CA, US: Elsevier Academic Press; 2014. xxi, 393 pp.
Abstract:

Judging veracity is an important part of investigative interviewing. The aim of this chapter is to review the literature on a technique developed to assist interviewers in judging the veracity of the reports obtained in interviews. More specifically, the purpose of this chapter is to provide an overview of the research program on the Strategic Use of Evidence (SUE) technique. The SUE technique is an interviewing framework that aims to improve the ability to make correct judgments of credibility, through the elicitation of cues to deception and truth. As such, it is not a general framework that will accomplish all goals relevant to interviewing and interrogation. However, as will be shown in this chapter, the SUE approach can help an interviewer plan, structure, and conduct an interview with a suspect in such a way that cues to deception may become more pronounced. As will be described, the SUE technique relies on various forms of strategic employment of the available information or evidence. While the SUE technique was originally developed to plan, structure, conduct, and evaluate interviews in criminal contexts, the theoretical principles apply to interviews and interrogations in other contexts, including those in which the goal is intelligence gathering. We will first provide an overview of the core findings from a vast body of research on human ability to judge truth and deception. This overview will serve

to contextualize the research on the SUE technique and illustrate the ways in which the technique departs from many other lie detection techniques. After reviewing basic work on judgments of truth and deception, we will turn to the fundamental principles on which the SUE framework is based. We will describe the central role of counter-interrogation strategies (i.e., the approaches suspects adopt in order to reach their goal during an interview), and we will review both theoretical and empirical work on the topic of counter-interrogation strategies. Subsequently, we will describe research on how to translate the basic theoretical principles into interview tactics. That is, we will describe research on strategic questions that aim to produce different responses from truthful and deceptive suspects. We will also review approaches to disclose the information in varying forms to produce cues to concealment and deception. Finally, we will offer the first meta-analysis of the available SUE research, in order to provide a quantitative synthesis of the literature to date.

Investigative interviewing in suspected sex offences.

Westera, Nina J. and Kebbell, Mark R.

Investigative interviewing. Bull, Ray, (Ed); pp. 1-18; New York, NY, US: Springer Science + Business Media; 2014. xix, 245 pp.

Abstract:

Suspected sex offences are difficult to investigate and prosecute. In many instances, the only evidence that exists is an account from a complainant and one from a suspect. This means that the way that these accounts are elicited with an investigative interview are critical. In this chapter, we will outline what we know about effective strategies for interviewing both complainants and suspects. Effective interviewing of complainants can dramatically increase the volume of information a complainant provides and has the potential to increase the credibility of this evidence. This is especially relevant now that recorded police interviews can be provided as evidence-in-chief in some jurisdictions. Suspect interviewing can be enhanced by using nonjudgmental approaches, allowing suspects to give their own account, and by other methods. We will draw together complainant and suspect interviewing to show how effective investigative interviewing can enhance the investigation and prosecution of sex crimes. Promisingly, a move towards video and audio recording these interviews allows psychological researchers to now examine this previously hidden world (Baldwin 1993). Coupled with methodological advances, this access has resulted in an increasingly sophisticated understanding about how to effectively interview suspects and complainants. In this chapter, we examine how this growing body of research might help improve the completeness and accuracy of information available for investigations into sex offending against adults. We also add to the body of literature by exploring the less researched area of how to optimize the relevance of information to help an investigation and any subsequent prosecution establish criminal culpability. We suggest that applying these understandings provides a pathway to increase the likelihood that not only are the guilty convicted, but also the falsely accused are exonerated. We start by providing context about how rape investigations are often conducted and hence what type of information is likely to influence the outcome of cases. We then turn our attention to how to elicit this information from the complainant and the suspect(s).

Psychological processes underlying true and false confessions.

Houston, Kate A., ORCID 0000-0002-7984-8084 . University of Texas at El Paso, El Paso, TX, US, khouston@utep.edu

Investigative interviewing. Bull, Ray, (Ed); pp. 19-34; New York, NY, US: Springer Science +

Abstract:

The current chapter will provide a brief review of the relevant theoretical approaches to understanding confessions and describe the variety of internal and external pressures that individuals may experience in the interrogation process. We consider decision-making approaches that focus on the consequences of confession as a key motivator, as well as the role of emotional or affective responses resulting from the interrogative process. We also assess the potential influence of internal experiences of guilt, remorse, and accountability, which may lead a suspect towards a 'need to confess', and the influence of external social pressures to comply with the demands of an interrogator. Finally, we discuss the framework offered by Gudjonsson (2003) that brings together these and other motivational factors. After considering the various theoretical accounts of confession, we discuss field studies that have begun to assess key psychological motivators for providing true versus false confessions. We then present a meta-analysis of the various social, cognitive, and affective factors leading to confession across six experimental laboratory studies we have conducted using the Russano et al. (2005a) paradigm, contrasting our laboratory findings with those of prior studies. We synthesize this research by proposing a process model, highlighting key differences in the psychological states that may lead to true and false confessions. Our thesis is that true and false confessions may be distinguished by several key psychological factors, and that an understanding of such factors can lead to the development of diagnostic interrogative approaches. Specifically, we propose that guilty individuals can be driven to confess based upon their perceptions of the evidence against them and certain internalized feelings of guilt, accountability, and responsibility for their actions. In contrast, we propose that false confessions are driven by innocent suspects' perceptions of the potential consequences of confessing and the social pressures placed upon them to comply with an interrogator's request for a confession.

Between investigator and suspect: The role of the working alliance in investigative interviewing.

Vanderhallen, Miet and Vervaeke, Geert

Investigative interviewing. Bull, Ray, (Ed); pp. 63-90; New York, NY, US: Springer Science +

Abstract:

Interviewees often experience being questioned by the police as an uncomfortable and stressful event. These feelings become even stronger for those being questioned as suspects, as the police typically focus on stringent accounts of the interviewees' behavior in order to find out whether they were involved in the crime. For many suspects, this does not create a good foundation for an open and detailed conversation. The importance of rapport within the context of investigative interviewing has been acknowledged in the scientific literature and in interview manuals. The word 'rapport' originates from the Latin word portare, which literally means 'to carry'. It is commonly agreed that building rapport is an essential ingredient for successful interviews, in that it helps conversations to flow more freely. Police officers should 'control' their interviews and not 'dominate' them, as domination is counterproductive. Similarly, confrontations should be avoided early in the interview, as they could hamper the process of building rapport, thereby causing the suspect to distrust the interviewer and withdraw all cooperation. The ability to build rapport is considered one of the principles of successful interviewing and one of the core skills that interviewers need. St-Yves (2009) argues that the effectiveness of interview techniques depends upon good rapport, thus identifying rapport as a necessary condition for effective suspect interviews. While good rapport can make it easier for an innocent suspect to provide an elaborate account, respectful treatment can also encourage a guilty suspect to provide a fuller account.

Investigative interviewing and training: The investigative interviewer apprentice.

Smets, Lotte and Rispens, Imke

Investigative interviewing. Bull, Ray, (Ed); pp. 147-165; New York, NY, US: Springer Science + Business Media; 2014. xix, 245 pp.

Abstract:

Interviewing individuals, be they witnesses, victims, suspects or minors, is crucial in policing. Within the context of investigation and for many decades, a great,deal of research has been done into police interviewing. So far, the focus of this research has been on revealing the truth, the objective of the interview and generating reliable and valid information. This research has increased our knowledge about which investigative interview techniques and attitudes are more likely to lead to accurate information. In turn, this has led to an increased emphasis on the importance of thorough training that concentrates on learning these well-founded interview techniques, as well as on structural training (i.e. evaluating and coaching of people's investigative interview practices). In practice, there are various kinds of coaching, such as supervision, intervision (this is discussing practice with peers), evaluation, group and individual coaching. These different methods share a common and explicit aim: to improve quality by evaluating an individual's performance and through giving and receiving feedback. Currently, supervision and coaching initiatives are being organised within the police organisation in both the Netherlands and Belgium. The usefulness and effect of these various kinds of coaching will be discussed in this chapter. In the first part, we will explain why working with coaching, both group and individual, is a necessary aspect of optimising investigative interview competences. By way of introduction, we then go on to concentrate on the various kinds of coaching methods—supervision and intervision are terms that are used a lot these days—and why generating and processing feedback should be an essential daily practice for investigative interviewers. Finally, we conclude the introductory section by reporting on the findings of recent research showing that coaching has a positive learning effect on interviewers. The second part of this chapter discusses coaching opportunities and their potential for police investigative interview practice in greater depth. What is interviewing coaching? Why is it advisable to use it? And what does an interviewing coach's job profile look like? We go on to give practical tips for giving and receiving feedback. Our objective is to work towards integrated coaching practices and optimal interview techniques.

When in interviews to disclose information to suspects and to challenge them?

Bull, Ray

Investigative interviewing. Bull, Ray, (Ed); pp. 167-181; New York, NY, US: Springer Science + Business Media; 2014. xix, 245 pp.

Abstract:

This chapter commences with an overview of recommendations made since the 1980s concerning how to reduce the resistance some suspects (especially guilty ones) may feel about talking in interviews with investigators. Then, recent research on what guilty suspects have actually said about their pre-interview willingness to admit/confess will be described. Following this, advice given over the decades in several countries about how to confront suspects in interviews with information that may incriminate them will be presented. The ensuing sections of the chapter will review some of our recent research on when in interviews it seems best to do this. The chapter will end with a brief account of one of the best interrogators of all time.

Human intelligence interviewing and interrogation: Assessing the challenges of developing an ethical, evidence-based approach.

Hartwig, Maria, et.al.
Investigative interviewing. Bull, Ray, (Ed); pp. 209-228; New York, NY, US: Springer Science + Business Media; 2014. xix, 245 pp.
Abstract:

The purpose of this chapter is to review the available research on Human Intelligence (HUMINT) interrogations. We will argue that there has been a recent paradigm shift in the approach to HUMINT interrogations. We will describe the conceptual, methodological, and practical implications of this paradigm shift. The chapter will be structured as follows. First, we will describe the defining characteristics of HUMINT interrogations and outline the scope of our discussion. We will describe how the challenges of HUMINT interrogations may be similar as well as different from interrogations in criminal settings. Second, in order to provide a context for our claim of a paradigm shift, we provide a historical overview of practice and research on HUMINT interrogations. Third, we offer a review of the current state of knowledge about the psychology of HUMINT interrogations, with a particular focus on methods that have been shown to be effective. Finally, we will outline several challenges for future research in this domain, and discuss how research on HUMINT may proceed to fill the gap in current knowledge.

Misleading suggestions can alter later memory reports even following a cognitive interview.
LaPaglia, Jessica A., et.al.
Applied Cognitive Psychology, Vol 28(1), Jan-Feb, 2014. pp. 1-9.
Abstract:

SUMMARY Taking an immediate recall test prior to misinformation exposure can increase eyewitness suggestibility—a finding termed retrieval-enhanced suggestibility. Here, we examined whether retrieval-enhanced suggestibility would occur when participants were administered an immediate Cognitive Interview (CI). The CI is an investigative interviewing technique that consistently elicits more correct details in memory reports than standard interviews. In this study, participants watched a video of a crime and then completed a distractor task (control condition), a free recall test, or the CI. They then heard misinformation presented in a narrative. Participants produced more accurate memory details in the CI than in free recall despite spending equal time on both tasks. However, the CI also increased the later report of misinformation relative to the control condition. These results show that initial retrieval can increase subsequent suggestibility even when such retrieval occurs under relatively ideal conditions.

The positive relationship between police rapport tactics and investigative interviewing outcomes.
Moraes, Susan L.
Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 74(12-B)(E), 2014.
Abstract:

Police interviews with suspects and accused persons are performed on a regular basis to obtain information and admissions required to resolve investigations. Psychological theories have suggested that the interaction that occurs between the interviewer and interviewee can influence the outcome of the interview. For instance, an investigator may be able to influence a suspect's ability to provide information or an admission through the use of rapport—a positive social influence tactic. Both verbal and non-verbal correlates of rapport as positive social influencing tactics have not been studied widely in the literature and are the focus of this study. This study examined 40 digital video recordings of adult suspects/accused persons convicted of crimes. There were 14 independent variables (7 verbal and 7 non-verbal rapport tactics). The 2 dependent variables were the total amount

of bits of information obtained from suspects and the final outcome (full admission, partial admission, denial, and no comment). The rapport variables were developed based on the work completed by previous researchers. Multiple regression analyses were completed to answer several research questions and hypotheses. Results showed that (a) overall rapport was a significant predictor of overall bits of information provided, (b) verbal overall rapport was a significant predictor of final interview outcome (admissions), (c) supportive questioning and clarifying or summarizing (verbal rapport) were significant predictors of the number of bits of information, (d) body orientation and forward lean (non-verbal rapport) were significant predictors of the number of bits of information, (e) supportive questioning and fluidity of conversation (verbal rapport) were significant predictors of final outcome (admissions), and (f) head nodding (non-verbal rapport) was a significant predictor of final outcome (admissions). The results suggest that some verbal and non-verbal social influencing tactics are associated with the amount of information provided and the likelihood of obtaining admissions from suspects. The study aids in the acquisition of knowledge of investigative interviews with suspects. Investigative interviewing of suspects is the cornerstone of our system of justice and for the ethical prosecution of cases. Thus, the study suggested evidence-based adequate and sustainable training should be implemented to all police investigators to maximize skills, and minimize the miscarriage of justice that is also cost effective. Furthermore, the collaborative partnerships between researchers and law enforcement are essential to establish practice guidelines and training methods for the future of investigative interviewing practices.

Retrieval enhances eyewitness suggestibility to misinformation in free and cued recall.
Wilford, Miko M., et.al.
Journal of Experimental Psychology: Applied, Vol 20(1), Mar, 2014. pp. 81-93.
Abstract:

Immediately recalling a witnessed event can increase people's susceptibility to later postevent misinformation. But this retrieval-enhanced suggestibility (RES) effect has been shown only when the initial recall test included specific questions that reappeared on the final test. Moreover, it is unclear whether this phenomenon is affected by the centrality of event details. These limitations make it difficult to generalize RES to criminal investigations, which often begin with free recall prior to more specific queries from legal officials and attorneys. In 3 experiments, we examined the influence of test formats (free recall vs. cued recall) and centrality of event details (central vs. peripheral) on RES. In Experiment 1, both the initial and final tests were cued recall. In Experiment 2, the initial test was free recall and the final test was cued recall. In Experiment 3, both the initial and final tests were free recall. Initial testing increased misinformation reporting on the final test for peripheral details in all experiments, but the effect was significant for central details only after aggregating the data from all 3 experiments. These results show that initial free recall can produce RES, and more broadly, that free recall can potentiate subsequent learning of complex prose materials.

The relationship between investigative interviewing experience and open-ended question usage.
Powell, Martine B., et.al.
Police Practice & Research: An International Journal, Vol 15(4), Jul, 2014. pp. 283-292.
Abstract:

We present three studies examining the role of prior job experience in interviewing and interviewers' ability to learn open-ended questions during a training program. We predicted a negative relationship such that more experienced interviewers would perform worse after training than less experienced interviewers, and that (irrespective of baseline performance)

the more experienced interviewers would improve the least during training. These predictions were made for two reasons. First, specific questions are commonly used in the workplace (i.e. open-ended questioning constitutes new learning). Second, experience in the use of specific questions potentially interferes with newly learned open-ended questions. Overall, our predictions were supported across different participant samples (including police officers specialized in child abuse investigation and social workers from the child protection area), time delays, and modes of training. The results highlight the need for investment in ongoing investigative interviewing training commencing early during professionals' careers, prior to the establishment of long-term habits in the use of specific questions.

Interpreter linguistic intervention in the strategies employed by police in investigative interviews.

Lai, Miranda and Mulayim, Sedat.

Police Practice & Research: An International Journal, Vol 15(4), Jul, 2014. pp. 307-321.

Abstract:

Police interviews are high-stakes activities that bear legal consequences when the cases move to court proceedings. A wide range of literature exists on police interviewing strategies aiming to obtain complete information from the interviewee; however, this literature focuses primarily on monolingual settings only. This paper reports on an empirical study examining the word choices made by interpreters of 11 selected languages in three scripted police interview excerpts. The study found that considered verbal strategies deliberately employed by police in investigative interviewing may be interfered with by the interpreter in a bilingual setting. The authors discuss the implications of such linguistic intervention for police interview outcomes and propose improvements for the training of interpreters and police.

Rapport operationalized as a humanitarian interview in investigative interview settings.

Holmberg, Ulf and Madsen, Kent.

Psychiatry, Psychology and Law, Vol 21(4), Jul, 2014. pp. 591-610.

Abstract:

This study describes and tests an empirical-based theoretical model of rapport in an investigative interview context. Essential in this study is whether rapport, operationalized as the humanitarian interview, in two interviews with a six-month retention interval, had any causal effects on the respective memory performance of 146 and 127 interviewees. Independent-samples t-tests revealed, on both occasions, that a humanitarian rapport interview led to a larger amount of reported information altogether, with more central and peripheral information, than a dominant non-rapport interview did. Regardless of the interview approach, mixed between-within analysis of variance showed a substantially larger amount of reported information in the first interview than the second. The amount of false information reported in both interviews was statistically invariable, regardless of interviewing style.

Exploring the disclosure of forensic evidence in police interviews with suspects.

Smith, Lisa L. and Bull, Ray.

Journal of Police and Criminal Psychology, Vol 29(2), Oct, 2014. pp. 81-86.

Abstract:

Despite many years of empirical research focusing on investigative interviewing and detecting deception, very little research attention has been paid to the various types of evidence which feature in police interviews with suspects. In particular, the use of forensic evidence in the context of police interviews has not been previously considered, although in recent years the availability of various types of forensic analyses has dramatically

increased. In the current study 398 experienced police interviewers from various countries completed a questionnaire about their experience of using various types of forensic evidence in interviews with suspects, as well as their perceptions regarding the strength of various sources of forensic information and how this may affect their interviewing strategy. The results indicated that although the participants have forensic evidence available in a large proportion of their interviews with suspects, the vast majority of police interviewers have received no training about how to interpret or use such forensic information. However, the perceived strength of forensic evidence was reported by some participants to affect their interview strategy and specifically the timing of the disclosure of such evidence during an interview. These findings are discussed with reference to police training and interview techniques, and suggestions for further research are offered.

'We'll take it from here': The effect of changing interviewers in information gathering interviews.

Shaw, Dominic J., et.al.

Applied Cognitive Psychology, Vol 28(6), Nov-Dec, 2014. pp. 908-916.

Abstract:

A common strategy in interviewing is to repeatedly focus on the same topics, for example by asking to recall an event first in chronological order and then in reverse order. We examined the effect of changing interviewers between the two questions or keeping the same interviewers throughout on cues to deception. Truth tellers may be most encouraged to recall again what they have witnessed when confronted with new interviewers, as these new interviewers have not heard their story before. Liars may be most encouraged to recall again their story when confronted with the same interviewers, realising that these interviewers will check for consistency in their answers. The impact of changing interviewers should lead to more pronounced differences between truth tellers and liars in terms of detail and repetition in the 'Changed Interviewers' condition compared with the 'Same Interviewers' condition. Participants were interviewed by two interviewers about a mock security meeting they attended. In half the interviews, the same two interviewers remained throughout, and in the other half, two new interviewers took over half-way through. As predicted, differences between truth tellers and liars in terms of detail and repetition were most pronounced in the 'Changed Interviewers' condition. Changing interviewers during an interview effectively differentiates liars and truth tellers with respect to detail and repetition. We discuss this finding and its place within investigative interviewing and deception detection literature.

Information gathering: Practical concerns.

Khader, Majeed.

Applied Cognitive Psychology, Vol 28(6), Nov-Dec, 2014. pp. 947-948.

Abstract:

This commentary is about the practical aspects of investigative interviewing and intelligence gathering. It discusses the real world applications and challenges of applying theory to field settings in intelligence and investigation work.

Examining the positive effects of rapport building: When and why does rapport building benefit adult eyewitness memory?

Kieckhaefer, Jenna Mitchell, et.al.

Memory, Vol 22(8), Nov, 2014. pp. 1010-1023.

Abstract:

Most investigative interviewing protocols recommend building rapport with cooperative adult witnesses to increase the accuracy of their reports. Although a few recent studies support the benefits of rapport building on adult witness recall, no study has examined

whether the timing of rapport in relation to post-event misinformation affects recall accuracy, and whether these effects are related to witness anxiety levels throughout the interview. The present study provided two hundred and thirty-three undergraduates with a videotaped mock crime followed by building high or low rapport either before or after they received post-event misinformation. All witnesses were then interviewed about the mock crime. Results indicated that high rapport before misinformation increased the amount of accurate information reported in a subsequent witness interview compared to low rapport. However, these recall benefits were not due to a reduction in anxiety. Theoretical implications and practical recommendations for police interviewing practices are discussed.

An Garda Síochána model of investigative interviewing of witnesses and suspects.
Noone, Geraldine.
Investigating terrorism: Current political, legal and psychological issues. Pearse, John, (Ed); pp.
Abstract:

This chapter, which provides the first detailed description of the background and development of the model, the conceptual framework and its key components, will introduce the new model, describe the components and outline the rationale for them and the training involved in each phase. The context in which investigative interviewing takes place in Ireland will also be described, together with the background to this initiative and a brief literature review relating to investigative interviewing models used by other police forces, before concluding with some observations about challenges for the future.

Interviewees' psychological well-being in investigative interviews: A therapeutic jurisprudential approach.
Madsen, Kent, et.al.
Psychiatry, Psychology and Law, Vol 22(1), Jan, 2015. pp. 60-74.
Abstract:

Therapeutic jurisprudence sees the law as a social force; its underlying idea is that legal procedures should promote the psychological well-being (PWB) of individuals involved in juridical actions. In this experimental study, 146 subjects were assigned to one of two groups: one undergoing humanitarian rapport interviews, the other undergoing non-rapport interviews. Each group underwent two interviews separated by a six-month interval. The causal effects of interview style on interviewees' PWB were measured using sense of coherence and State–Trait Anxiety inventories, both pre and post interview at Interviews I and II. Analysis of covariance of scores from both interviews showed interaction effects between interview style and interviewees' anxiety and sense of coherence, respectively. At Interview I, a non-rapport approach was related to increased anxiety, that is, decreased PWB when comparing pre- and post-interview testing. At Interview II, a humanitarian rapport approach promoted improved sense of coherence, thus, increased PWB. More empirical research on PWB in relation to therapeutic jurisprudence is needed. The discussion focuses on how PWB should be measured in a therapeutic jurisprudential context of investigative interviews.

PEACE in fraud interviews: Assumptions and detection of guilt and the impact on interviewer behaviour.
Shawyer, Andrea and Milne, Rebecca.
Crime Prevention and Community Safety, Vol 17(1), Feb, 2015. pp. 30-46.
Abstract:

A survey was conducted in the United Kingdom to identify the beliefs and attitudes of Department for Work and Pensions and police fraud investigators towards the PEACE model of interviewing with particular focus on assumptions of guilt, interviewer

characteristics and detecting deception. There was support for the usefulness of the PEACE model for fraud interviews, although assumptions of guilt before these interviews were widespread. This finding was coupled with stereotypical beliefs about cues to deception, despite a general view that open mindedness and good listening skills were key features of a good interviewer. It was concluded that the way in which fraud investigations are carried out challenges the expectation that the interviewer will not assume guilt before the interview but does not necessarily challenge the expectation that the interviewer will have an open-minded and non-judgemental attitude. Beliefs about cues to deception should be challenged and substituted for more reliable indicators.

Methods and aims of investigative interviewing of adult witnesses: An analysis of professional practices.
Launay, C.. Laboratoire
Pratiques Psychologiques, Vol 21(1), Mar, 2015. pp. 55-70.
Abstract:

Eyewitnesses provide crucial evidence for the investigation of criminal cases. We analysed professional police interviewers' behaviour by conducting a literature review. Our results indicate that the interviewing techniques used by untrained and trained investigators are predominantly inappropriate and harmful to memory recall. The way investigators curtail and select witnesses' responses suggests that they look for specific information. As a subsequent step, we analysed investigative interviewing in terms of professional objectives, identifying the types of information that the police inquire about during the interview. Based on our results, we conclude future research should perform a fine-grained analysis of professional interviewing procedures with the aim of producing effective interviewing techniques that meet investigators' real-world objectives.

Should police use ACID? Training and credibility assessment using transcripts versus recordings.
Colwell, Kevin, et.al.
Journal of Forensic Psychology Practice, Vol 15(3), May, 2015. pp. 226-247.
Abstract:

There is a need for an applicable system of investigative interviewing and credibility assessment that extends science to practice. Experiment 1: Officers assessed the credibility of colleagues in a face-to-face interaction. Fourteen of sixteen officers were wrong in determining whether their colleague was responding honestly to them or lying to them. Experiment 2 compared untrained officers to officers trained in Assessment Criteria Indicative of Deception (ACID) in their ability to assess the credibility of statements regarding real and mock crimes by analyzing either verbatim transcripts or audio recordings. Officers who were trained in ACID performed significantly better after training than before, and significantly better than a group of officers who were never trained in ACID (89% correct versus 53% correct). No differences emerged due to analyzing transcripts versus recordings. The practical aspects of these results are discussed, including success rate, ease of application, and ease of training. The theoretical discussion includes differential recall enhancement and impression management. Finally, limitations and suggestions for future research are presented.

Rapport-building during witness and suspect interviews: A survey of law enforcement.
Authors:
Vallano, Jonathan P., et.al.
Applied Cognitive Psychology, Vol 29(3), May-Jun, 2015. pp. 369-380.
interviews, law enforcement
Abstract:

Building rapport with adult witnesses and suspects is recommended by major investigative interviewing protocols (e.g., Cognitive Interview and the Army Field Manual in the USA and PEACE in the UK). Although recent research suggests that building rapport can sometimes benefit police investigations by increasing the accuracy of adult eyewitness reports and potentially enhance the diagnosticity of evidence obtained from suspects, little data exist regarding how law enforcement interviewers actually define and build rapport in real-world investigations. To fill this void, the present study distributed a questionnaire containing open and closed-ended questions to 123 law enforcement interviewers in police training courses to determine how they conceptualize and build rapport with adult interviewees. Results indicate that a majority of law enforcement interviewers define rapport as a positive relationship involving trust and communication, with a strong minority defining rapport as a 'positive or negative' relationship. Further, law enforcement interviewers reported building rapport with adult witnesses and suspects in a similar manner, often by using verbal techniques (e.g., discussing common interests via small talk) and non-verbal techniques (e.g., displaying understanding via empathy and sympathy). Theoretical and applied implications of these results are discussed.

Productive and counterproductive interviewing techniques: Do law enforcement investigators know the difference?

Hirn Mueller, Dana, et.al.

Psychology, Public Policy, and Law, Vol 21(3), Aug, 2015. pp. 295-308.

Abstract:

To date, there has been very little research examining the knowledge and perceived use of productive and counterproductive investigative interviewing techniques by U.S. law enforcement. The current study attempted to address this gap in the literature by presenting 212 U.S. law enforcement interviewers with video vignettes depicting productive and counterproductive interviewing techniques via an online survey. Interviewers were asked to identify each technique, report their use of each technique, and give their reasons for use and nonuse, respectively. In a subsequent section of the survey, participants were given the names and descriptions of the techniques previously shown in the videos and asked to rate the efficacy of each technique. Investigative interview training experience and knowledge of the National Institute of Justice guidelines for eyewitness evidence were also assessed. Results revealed that real-world interviewers report using productive techniques more frequently than counterproductive techniques and that the primary reason for using any interviewing technique is its perceived efficacy in gathering accurate and plentiful information. Participants also rated productive techniques as being more effective at gathering accurate and plentiful information compared to counterproductive techniques. Of participants who reported receiving academy training after the National Institute of Justice guidelines were released, only 14.6% indicated that their interview training was based on those guidelines. Taken together, law enforcement investigators presented a general awareness that using productive witness interviewing techniques elicits more plentiful, accurate information from witnesses.

Interviewing suspects: Examining the association between skills, questioning, evidence disclosure, and interview outcomes.

Walsh, Dave and Bull, Ray.

Psychology, Crime & Law, Vol 21(7), Aug, 2015. pp. 661-680.

Abstract:

The interviewing of suspects is an important element in the investigation of crime. However, studies concerning actual performance of investigators when undertaking such interviews remain sparse. Nevertheless, in England and Wales, since the introduction of a

prescribed framework over 20 years ago, field studies have generally shown an improvement in interviewing performance, notwithstanding ongoing concerns largely relating to the more demanding aspects (such as building/maintaining rapport, intermittent summarising and the logical development of topics). Using a sample of 70 real-life interviews, the present study examined questioning and various evidence disclosure strategies (which have also been found demanding), examining their relationships between interview skills and interview outcomes. It was found that when evidence was disclosed gradually (but revealed later), interviews were generally both more skilled and involved the gaining of comprehensive accounts, whereas when evidence was disclosed either early or very late, interviews were found to be both less skilled and less likely to involve this outcome. These findings contribute towards an increased research base for the prescribed framework.

Interviewing suspects: Examining the association between skills, questioning, evidence disclosure, and interview outcomes.

Walsh, Dave and Bull, Ray.

Psychology, Crime & Law, Vol 21(7), Aug, 2015. pp. 661-680.

Abstract:

The interviewing of suspects is an important element in the investigation of crime. However, studies concerning actual performance of investigators when undertaking such interviews remain sparse. Nevertheless, in England and Wales, since the introduction of a prescribed framework over 20 years ago, field studies have generally shown an improvement in interviewing performance, notwithstanding ongoing concerns largely relating to the more demanding aspects (such as building/maintaining rapport, intermittent summarising and the logical development of topics). Using a sample of 70 real-life interviews, the present study examined questioning and various evidence disclosure strategies (which have also been found demanding), examining their relationships between interview skills and interview outcomes. It was found that when evidence was disclosed gradually (but revealed later), interviews were generally both more skilled and involved the gaining of comprehensive accounts, whereas when evidence was disclosed either early or very late, interviews were found to be both less skilled and less likely to involve this outcome. These findings contribute towards an increased research base for the prescribed framework.

A reverse order interview does not aid deception detection regarding intentions.

Fenn, Elise, et.al.

Frontiers in Psychology, Vol 6, Aug 31, 2015. ArtID: 1298

Abstract:

Promising recent research suggests that more cognitively demanding interviews improve deception detection accuracy. Would these cognitively demanding techniques work in the same way when discriminating between true and false future intentions? In Experiment 1 participants planned to complete a task, but instead were intercepted and interviewed about their intentions. Participants lied or told the truth, and were subjected to high (reverse order) or low (sequential order) cognitive load interviews. Third-party observers watched these interviews and indicated whether they thought the person was lying or telling the truth. Subjecting participants to a reverse compared to sequential interview increased the misidentification rate and the appearance of cognitive load in truth tellers. People lying about false intentions were not better identified. In Experiment 2, a second set of third-party observers rated behavioral cues. Consistent with Experiment 1, truth tellers, but not liars, exhibited more behaviors associated with lying and fewer behaviors associated with truth telling in the reverse than sequential interview. Together these results suggest that

certain cognitively demanding interviews may be less useful when interviewing to detect false intentions. Explaining a true intention while under higher cognitive demand places truth tellers at risk of being misclassified. There may be such a thing as too much cognitive load induced by certain techniques.

Mimicry and investigative interviewing: Using deliberate mimicry to elicit information and cues to deceit.

Shaw, Dominic J., et.al.

Journal of Investigative Psychology and Offender Profiling, Vol 12(3), Oct, 2015. pp. 217-230.

Abstract:

We examined the effect of deliberate mimicry on eliciting (accurate) information and cues to deceit. Mimicry is considered to facilitate cooperation and compliance in truth tellers, whereas liars are constrained to provide detail. We therefore expected truth tellers to be more detailed than liars, particularly after being mimicked. A total of 165 participants told the truth or lied about a meeting they attended. During the interview, an interviewer mimicked half of the participants. Truth tellers were more detailed than liars, but only in the 'mimicry present' condition. Truth tellers also gave more accurate units of information than liars, and the difference was most pronounced in the 'mimicry present' condition. Mimicry as a tool for eliciting information and cues to deceit fits well with the emerging 'interviewing to detect deception' literature, particularly in the 'encouraging interviewees to say more' approach.

Interviewing to elicit information: Using priming to promote disclosure.

Dawson, Evan. John Jay, et.al.

Law and Human Behavior, Vol 39(5), Oct, 2015. pp. 443-450.

Abstract:

Research on implicit cognition has found that activating mental concepts can lead people to behave in ways that are consistent with the primed concept. In a pilot study we tested the effects of priming attachment security on the accessibility of disclosure-related concepts. Subsequently, we tested whether activating disclosure concepts by priming attachment security would influence people's forthcomingness. Participants (N = 102) delivered a flash drive to a confederate who exposed them to details of a mock eco terrorism conspiracy, which they were subsequently interviewed about. Before being interviewed, half of the participants were primed; the other half were not. Results showed that primed participants disclosed significantly more information than those who were not primed. Our findings highlight the need for further research on basic nonconscious processes in investigative interviews, as such influences can affect the outcome of the interview. The operation of nonconscious influences in such contexts has implications for practitioners, who may be able to utilize priming to facilitate disclosure.

Investigative interviewing: Harnessing the power of the team.

Driskell, Tripp and Salas, Eduardo.

Group Dynamics: Theory, Research, and Practice, Vol 19(4), Dec, 2015. pp. 273-289.

Abstract:

Teams are ubiquitous in the world of work, in part because they offer the capacity to reduce workload and enhance performance on complex tasks. One task that has taken on heightened importance in today's world is the investigative interview, an information-gathering interview that is conducted in settings as diverse as airport screening, military checkpoints, law enforcement, corporate fraud, and intelligence settings. The goal of this research is to examine how the 'power' of teams may be exploited by utilizing pairs of interviewers to conduct the investigative interview. Results indicate that there are benefits and drawbacks to tandem interviews. Specifically, tandem interviewers achieved superior

interview outcomes than individual interviewers, including a reduction in cognitive demand, more attention to issue-relevant information (i.e., story cues), and greater use of open-ended questions. On the other hand, the use of tandem interviewers resulted in lower interviewee rapport and tandem interviewers were no more adept at detecting deception than single interviewers. In brief, the results suggest a tangible benefit to the tandem interview. Implications for practice and application are discussed.

Exploring types and functions of questions in police interviews.

Parent Book Series:

Wiley series in the psychology of crime, policing and law

Grant, Tim, et.al.

Communication in investigative and legal contexts: Integrated approaches from forensic psychology, linguistics and law enforcement. Oxburgh, Gavin, (Ed); Myklebust, Trond, (Ed); Grant, Tim, (Ed); Milne, Rebecca, (Ed); pp. 17-38; Wiley Blackwell; 2016. xxiv, 377 pp.

Abstract:

Most investigative interviewing chapters in the current volume begin with the wealth of psychological literature. As with any research programme, this has provided within-paradigm advances; however, there are the occasionally notes about the inadequacy of some aspects of the paradigm. One example is that many studies have attempted to define and categorize questioning, but as Cerovic (2010, p. 10) notes it can be, '...difficult to define the act of questioning as questions can perform numerous different purposes, not just information seeking.' Oxburgh, Myklebust and Grant (2010) also problematize the categorization of question types as used in police interviews, pointing out the proliferation of categorization schemes, which are mostly developed from psychologists' understanding of the nature of linguistic interactions. There is, of course, a wealth of linguistics literature in this area; Heydon (2011), for example, brings a conversation analysis approach into the field to describe the control a police interviewer exhibits over interview topics. In this chapter, we wish to give a demonstration of how research originating in the linguistic paradigm can enrich research into the police interview and in particular into the categorization of questions during forensic communication per se. As will be demonstrated, this requires a switch of focus from the 'words' used by interviews to the 'function' of conversational turns within interviews.

Deceiving suspects about the content of their alibis: Consequences for truthful and untruthful suspects.

Sauerland, Melanie, et.al.

Journal of Forensic Practice, Vol 18(2), 2016. pp. 143-154.

Abstract:

Purpose: The purpose of this paper is to test how modifying one’s alibi statement interacts with exposure to deceptive interrogation techniques. Design/methodology/approach: In all, 90 participants walked about a university building for 15 minutes and either stole an envelope from a staff pigeonhole (guilty condition) or put the envelope there along the way (innocent condition). Subsequently, participants were asked to provide an alibi for the past 15 minutes. Guilty and half of the innocent participants were instructed to omit that they had been in the vicinity of the pigeonholes. The rest of the innocent participants were asked to tell the truth. Several days later, participants were questioned about six statements taken from their alibis, three of which contained altered information. Findings: As expected, participants were largely blind to our alterations, with detection rates ranging from 1 to 36 percent. Contrary to cognitive load predictions, detection rates did not vary as a function of truthfulness. Rather, guilty participants were less likely to detect alterations than innocents. Research limitations/implications: Memory distrust and guilty suspects’ aim to

keep a low profile might be possible explanations for these findings. Practical implications: It is recommended that law enforcement officers and other legal practitioners refrain from using deceptive interrogation techniques and such techniques that can cause inconsistencies in suspects' reports. Researcher should make it their task to educate these professional groups about the natural occurrence of memory related, non-deceptive inconsistencies in successive statements. Originality/value: This research uses a new methodology to study the effect of deceptive interrogation techniques on both innocent and guilty suspects. The findings are relevant for legal practitioners and researchers.

One way or another? Criminal investigators' beliefs regarding the disclosure of evidence in interviews with suspects in England and Wales.

Authors:

Walsh, Dave, Milne, Becky, and Bull, Ray.

Journal of Police and Criminal Psychology, Vol 31(2), Jun, 2016. pp. 127-140.

Abstract:

The research base concerning interviews with suspects remains to be comprehensively developed. For example, the extant literature provides differing views regarding how best to undertake the important interview task of disclosing evidence. In the current study, using a self-report questionnaire, 224 investigators based in England and Wales were asked as to their own preferred methods. Most respondents advocated a gradual method of disclosing evidence, stating that this approach would better reveal inconsistencies and obtain a complete version of events (similar to the reasoning of those who preferred disclosing evidence later). Those who advocated revealing evidence early stated this approach would more likely elicit confessions. Several respondents would not commit to one single method, arguing that their chosen strategy was contextually dependent. The study's findings suggest that it remains arguable as to whether there is one best approach to evidence disclosure and/or whether particular circumstances should influence interviewing strategies.

The dynamic nature of interrogation.

Kelly, Christopher E., et.al.

Law and Human Behavior, Vol 40(3), Jun, 2016. pp. 295-309.

Abstract:

Building on a substantial body of literature examining interrogation methods employed by police investigators and their relationship to suspect behaviors, we analyzed a sample of audio and video interrogation recordings of individuals suspected of serious violent crimes. Existing survey research has focused on the tactics reportedly used, at what rate, and under what conditions; observational studies detail which methods are actually employed. With a few notable exceptions, these foundational studies were static examinations of interrogation methods that documented the absence or presence of various approaches. In the present study, we cast interrogation as a dynamic phenomenon and code the recordings in 5-min intervals to examine how interrogation methods and suspect cooperation change over time. Employing the interrogation taxonomy framework, particularly 4 discrete domains—rapport and relationship building, emotion provocation, presentation of evidence, and confrontation/competition—we found that the emphasis of the domains varied across interrogations and were significantly different when suspects confessed versus when they denied involvement. In regression models, suspect cooperation was positively influenced by the rapport and relationship building domain, though it was negatively impacted by presentation of evidence and confrontation/competition. Moreover, we found that the negative effects of confrontation/competition on suspect cooperation lasted for up to 15 min. The implications of the findings for practice and future research include the benefits of a rapport-based approach, the deleterious effects of accusatorial

methods, and the importance of studying when, not just if, certain interrogation techniques are employed.

Strategic disclosure of evidence: Perspectives from psychology and law.
Sukumar, Divya, et.al.
Psychology, Public Policy, and Law, Vol 22(3), Aug, 2016. pp. 306-313.
Abstract:

The police frequently present their evidence to suspects in investigative interviews. Accordingly, psychologists have developed strategic ways in which the police may present evidence to catch suspects lying or to elicit more information from suspects. While research in psychology continues to illustrate the effectiveness of strategic evidence disclosure tactics in lie detection, lawyers and legal research challenge these very tactics as undermining fair trial defense rights. Legal research is alive to the problems associated with strategically disclosing evidence to a suspect, such as preventing lawyers from advising the suspect effectively, increasing custodial pressure for the suspect, and worsening working relations between lawyers and police. This paper brings together the opposing research and arguments from the 2 disciplines of psychology and law, and suggests a new way forward for future research and policy on how the police should disclose evidence.

Which lie detection tools are ready for use in the criminal justice system?
Authors:
Vrij, Aldert and Fisher, Ronald P.
Abstract:

We introduce 'arousal based' lie detection tools (the Behavior Analysis Interview, the Comparison Question polygraph Test, CQT) and 'cognition based' lie detection tools (imposing cognitive load, encouraging interviewees to say more, asking unexpected questions, Strategic Use of Evidence, Verifiability Approach and Concealed Information polygraph Test, CIT), and discuss whether they are ready for use in investigative interviews. We developed ten criteria on which to judge their suitability. The two arousal-based techniques (frequently used) fall short on numerous criteria. There are too many problems associated with the imposing cognitive load technique, but the other cognitive techniques are ready for use (encouraging interviewees to say more and Strategic Use of Evidence) or ready for use if they continue to receive support in empirical research (asking unexpected questions and Verifiability Approach). The CIT polygraph test cannot be included in a standard investigative interview but can be useful in addition to investigative interviewing.

Emotional intelligence in police interviews—Approach, training and the usefulness of the concept.
Risan, Patrick, et.al.
Journal of Forensic Psychology Practice, Vol 16(5), Oct, 2016. pp. 410-424.
Abstract:

In police investigative interviews, investigators may encounter interviewees who are experiencing a wide range of emotional states that must be accommodated and managed to elicit information about a given event. The aim of this study was to explore how the theoretical concept of emotional intelligence may be of value in describing investigators' management of emotion in interviews. First, we define emotional intelligence in the context of investigative interviewing, emphasizing empathy and emotion regulation. Then, we present four key considerations for training interviewers in managing emotions. The implications of implementing the concept of emotional intelligence in investigative interviewing are discussed.

'Blind' interviewing: Is ignorance bliss?
Rivard, Jillian R., et.al.
Memory, Vol 24(9), Oct, 2016. pp. 1256-1266.
Abstract:

Current investigative interviewing guidelines [e.g., Technical Working Group: Eyewitness evidence. (1999). Eyewitness evidence: A guide for law enforcement. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. Retrieved from https://www-ncjrs-gov.ezproxy2.library.arizona.edu/pdffiles1/nij/178240.pdf] suggest that interviewers review available case information prior to conducting a witness interview. The present study investigated the effect of interviewers' pre-interview awareness of crime details on eyewitnesses' memory and interviewer behaviour shortly after a mock crime or a week later. Results indicate that blind interviewers with no knowledge about the crime elicited more correct information than those who were correctly informed about the crime. Differences in interviewer behaviour emerged only in the very first question of the interview: Blind interviewers were more likely to begin the interview with a non-suggestive question than the informed interviewers. Blind interviewers also recalled more details than the informed interviewers when asked to generate a report after the witness interview documenting the witness' account.

Want a better criminal justice response to rape? Improve police interviews with complainants and suspects.
Westera, Nina J., et.al.
Violence Against Women, Vol 22(14), Dec, 2016. pp. 1748-1769.
Abstract:

Achieving just outcomes in rape cases is difficult, but there are ways we can improve the investigation and prosecution of these crimes, now. We outline how targeting variables, within control of the criminal justice system, can improve the quality of information police obtain from interviews with complainants and suspects. We explore how, by preserving these accounts on video, the criminal justice process can better use this information to improve effective decision making from investigation through to criminal trial through to prevention.

Evaluating interviews which search for the truth with suspects: But are investigators' self-assessments of their own skills truthful ones?
Walsh, Dave, et.al.
Psychology, Crime & Law, Vol 23(7), Aug, 2017. pp. 647-665.
Abstract:

Self-evaluation of one's own performance has been found in prior research to be an enabler of professional development. The task of evaluation is also a core component of a model of the investigative interviewing of victims, witnesses and suspects, being increasingly used throughout the world. However, it remains the case that there has been little research as to how practitioners approach the task itself. The present study examined the topic through the lens of observing how effectively 30 real-life investigators in the UK undertook evaluation of their interviews, representing almost the entire investigative frontline workforce of a small law enforcement agency in this country. Using an established scale of measurement, both investigators' and an expert's ratings of the same sample of interviews were compared across a range of tasks and behaviours. It was found that in almost all the assessed behaviours, requiring of the investigators to provide a self-rating, their scores tended to significantly outstrip those applied to the sample by the expert. Reasons are explored for the investigators' overstated assessments. Implications for practice are then discussed.

Gathering human intelligence via repeated interviewing: Further empirical tests of the Scharff technique.
Oleszkiewicz, Simon, et.al.
Psychology, Crime & Law, Vol 23(7), Aug, 2017. pp. 666-681.
Abstract:

Research on investigative interviewing has only recently started to compare the efficacy of different techniques for gathering intelligence from human sources. So far the research has focused exclusively on sources interviewed once, thus overlooking that most sources are interviewed multiple times. The present study attempts to remedy this gap in the literature. Students (N = 66) took on the role of semi-cooperative sources, holding incomplete information about an upcoming terrorist attack. The sources were informed that they would be interviewed at least once, and that additional interviews might follow. Half of the sources were interviewed on three occasions with the Scharff technique (consisting of five tactics), and the other half was interviewed on three occasions using the so-called direct approach (i.e. open-ended and specific questions). Collapsing the outcome over the three interviews, the Scharff technique resulted in significantly more new information compared to the direct approach. Furthermore, sources interviewed by the direct approach overestimated how much new information they had revealed, whereas the sources interviewed by the Scharff technique underestimated their contribution (although not significantly so). The current study advances previous research by further contextualizing the tests of the efficacy of human intelligence gathering techniques.

False confessions.
Kassin, Saul M.
WIREs Cognitive Science, Vol 8(6), Nov-Dec, 2017. pp. 1-11. ArtID: e1439
Abstract:

As illustrated by numerous cases in recent years, DNA exonerations of innocent individuals have cast a spotlight on the counterintuitive problem of false confessions. Studying the underlying psychology scientists have found that (1) innocent people are often targeted for interrogation because police make erroneous but confident judgments of deception; (2) certain interrogation techniques—namely, lengthy sessions, presentations of false evidence, and minimization themes that imply leniency—increase the risk that innocent people will confess; (3) certain individuals are particularly vulnerable to influence—notably, those with mental health problems or intellectual impairments, which render them overly compliant or suggestible, and children and adolescents, who exhibit 'immaturity of judgment'; (4) confession evidence is highly persuasive in court as a matter of common sense, increasing perceptions of guilt, even among judges and juries who see the confession as coerced, and even at times when the confession is contradicted by exculpatory information; (5) Miranda rights to silence and to counsel are not sufficiently protective, so proposals for reform have centered on the mandatory recording of interrogations, from start to finish, and a shift toward using investigative interviewing—a less confrontational, less deceptive means of questioning suspects.

Developing an evidence-based perspective on interrogation: A review of the U.S. government's high-value detainee interrogation group research program.
Meissner, Christian A., et.al.
Psychology, Public Policy, and Law, Vol 23(4), Nov, 2017. Special Issue: Psycho-legal Researchers' Impact on Policies and Legal Practices: Past and Future. pp. 438-457.
Abstract:

Interrogation practices in the United States have been roundly criticized both for their accusatorial ethos, at times leading to false confessions by the innocent, and for a history

of applying physical and psychological coercion in law enforcement, military, and intelligence contexts. Despite decades of psychological research demonstrating the failures of such approaches and despite recent positive advances in countries such as the United Kingdom moving to an information-gathering framework, little change has occurred in the training or practice of U.S. interrogation professionals over the past 50 years. This article describes recent historical events that have led to the development of the first unclassified, government-funded research program on the science of interviewing and interrogation. Since 2010, the High-Value Detainee Interrogation Group (HIG) research program has identified effective approaches for developing cooperation and rapport, eliciting information, challenging inconsistencies by presenting evidence or information strategically, and assessing credibility using cognitive cues and strategic questioning tactics. The program has also examined the influence of culture and language, and has facilitated the translation of research from the laboratory to the field. In this context, we review the significant contributions of psychologists to understanding and developing ethical, legal, and effective interrogation practices, and we describe important future directions for research on investigative interviewing and interrogation.

Building a case: The role of empirically based interviewing techniques in case construction.
Luke, Timothy J. et.al.

Abstract:

This chapter provides researchers and practitioners with a suggested lens through which to consider research on investigative interviewing and deception detection, with a particular focus on the question of how to evaluate the effectiveness of various techniques. This lens places special focus on the notion of case construction. Researchers have heretofore neglected the role of interviewing techniques for case construction, and they believe practitioners and researchers alike would benefit from consideration of this crucial aspect of the criminal justice process. The chapter argues that applying the strategic use of evidence technique during the investigative phase is highly viable for case construction. It begins with a review of the psychological research literature on deception detection and on interviewing and interrogation. From there, it describes the new wave of applied research on questioning techniques designed to improve deception detection and information collection. The chapter concludes with a discussion of the state of the science of interviewing, especially with respect to its relevance for case construction.

The Impact of the Reid Technique of Investigative Interviewing on False Confessions and Jury Verdicts.
Freitas, Jaleesa.
Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 79(3-B)(E), 2018.

Abstract:

The purpose of this research was to examine the impact The Reid Technique of Investigative Interviewing may have had on a suspect's decision to confess to a crime. Furthermore, this research examined the impact a suspect's confession may have had on jurors depending on the amount of information those jurors were provided regarding how the confession was obtained by investigators. Research from the organization The Innocence Project has found that false confessions provided by suspects accused of criminal activity is one of the most common ways an innocent person can be convicted of a crime. This study was designed to assess whether a potential juror, member of the general public who met the criteria for being a potential juror (i.e., over the age of 18, United States citizenship, adequately proficient in the English language, and had no history of felony convictions) would change his/her opinion regarding a fictional suspect's guilt within a

scenario depending on the amount of information he/she was provided. Participants were asked to respond to a series of questions regarding their thoughts and opinions to two fictional scenarios. The first scenario contained a limited amount of information regarding a suspect's confession to crime and the second scenario contained a more descriptive account about what had taken place in the first scenario leading up to the suspect's confession. Results of the study indicated that overall participants changed their responses to questions asked depending on the amount of information with which they were provided.

Development of the Rapport Scales for Investigative Interviews and Interrogations (RS3i), Interviewee Version.

Duke, Misty C., et.al.

Psychology, Public Policy, and Law, Vol 24(1), Feb, 2018. pp. 64-79.

Abstract:

This article describes the development and psychometric properties of the Rapport Scales for Investigative Interviews and Interrogations, Interviewee Version (RS3i), a multidimensional self-report questionnaire intended to measure interviewees' experience of rapport in forensic and intelligence interviews. Two studies are described. In Study 1, 80 simulated investigative interviews were conducted regarding a supposed case of domestic terrorism. Afterward, the 80 interviewee participants rated the interviews on rapport-related questionnaire items. Confirmatory factor analysis (CFA) of these ratings was used to construct a 21-item measure, the RS3i, comprising 5 Rapport Scales (Attentiveness, Trust/Respect, Expertise, Cultural Similarity, and Connected Flow) and a sixth scale, Commitment to Communication, that assesses an interviewee's motivation to be cooperative. In Study 2, another 94 simulated investigative interviews were conducted, after which interviewee participants rated the interview using the RS3i. A CFA of the Study 2 data confirmed the factor structure identified in Study 1. Good internal reliability and construct validity were demonstrated for most RS3i scales. Furthermore, scores on several scales were found to be higher when interviewers used rapport-based tactics and to correlate with the amount of information disclosed by interviewees during questioning. The RS3i can be a useful, psychometrically sound tool for use in rapport research and the training of forensic and intelligence interviewers.

Using specific model statements to elicit information and cues to deceit in information-gathering interviews.

Porter, Cody Normitta, et.al.

Journal of Applied Research in Memory and Cognition, Vol 7(1), Mar, 2018. pp. 132-142.

NLM Title Abbreviation:

Abstract:

Model Statements are designed to modify an interviewee's expectation of the amount of details required during an interview. This study examined tailored Model Statements, emphasising either spatial (Spatial-MS), or temporal (Temporal-MS) details, compared to a control condition (no-MS). Participants (63 liars, 63 truth-tellers) were randomly allocated to one of three interviewing conditions. Truth-tellers honestly reported a spy mission, whereas liars performed a covert mission and lied about their activities. The Spatial-MS elicited more spatial details than the control, particularly for truth-tellers. The Temporal-MS elicited more temporal details than the control, for truth-tellers and liars combined. Results indicate that the composition of different Model Statements increases the amount of details provided and, regarding spatial details, affects truth-teller's and liar's statements differently. Thus, Model Statements can be constructed to elicit information and magnify cues to deceit.

Qualitative analysis of qualitative evaluation: An exploratory examination of investigative interviewers' reflections on their performance.
Griffiths, Andrew and Walsh, David.
Psychology, Crime & Law, Vol 24(4), May, 2018. pp. 433-450.
Abstract:

Self-evaluation of interviews conducted by law enforcement professionals is a principal feature of a prescribed interview framework in England and Wales, underpinning their practice development. However, self-evaluation has been found in prior research to be neglected. Building on our recent study (which found that interviewers regularly over-rated themselves, when compared to our independent ratings), the same interviewers assessed their interview skills by way of completing an extensive reflective log. We found that those we regarded as skilled in our prior study tended to be more accurate in identifying their strengths and areas for improvement, while planning to correct such shortfalls in their future practice. On the other hand, those we had earlier rated as least skilled tended to be much less reflective, being both descriptive and inaccurate in their understanding of key interview tasks. They also remained inaccurate concerning their own interview skills, failing to be prospective in planning to improve their skills. As such, while reflective logs appear to be, for skilled interviewers, both a prompt for accurate self-assessment and a catalyst for planning further professional development, we also caution that such tools need further refinement to achieve the same goals for those either less reflective or less skilled.

Planning ahead? An exploratory study of South Korean investigators' beliefs about their planning for investigative interviews of suspects.
Kim, Jihwan, et.al.
Journal of Police and Criminal Psychology, Vol 33(2), Jun, 2018. pp. 158-174.
Abstract:

Preparation and planning has been argued to be vitally important as to how effectively investigators undertake their interviews with suspects. Yet, it has also been found in previous research that investigators admit that they plan only occasionally, often attributing insufficient time as a reason for not undertaking the task. Employing a novel research paradigm that utilised theoretical foundations concerning planning, the present study explored empirically 95 South Korean financial crime investigators' views, using a self-administered questionnaire. With the use of second-generation statistical modelling, an understanding was developed of the relative relationships between various concepts (which had themselves emerged from an established theoretical framework of planning that had been further extended to accommodate the context of the present study). The study found that perceived time pressures actually showed a very low association with interview planning. Rather, investigators' self-belief as to their own capability alongside workplace culture was each found to have stronger associations with investigators' intentions to plan for their interviews. As such, we argue that there should be more focus on improving occupational culture relating to interview planning, while developing training programs that identify, evaluate, and enhance investigators' planning skills. Implications for practice are therefore discussed.

The combined effects of questioning technique and interviewer manner on false confessions.
Paton, Wendy, et.al.
Journal of Investigative Psychology and Offender Profiling, Vol 15(3), Oct, 2018. pp. 335-349.
Abstract:

Although it is known that interrogation tactics can elicit false confessions and interviewer manner may determine the outcome of an interview, the combined effects of questioning technique and interviewer manner on false confessions have not been examined

empirically. Following a false accusation of theft, participants were interviewed in one of four questioning conditions (minimization, repetitive questioning, leading questions, and nonleading questions) in which interviewers adopted a stern or friendly manner. Perceptions of pressure to confess and interviewer behaviours were measured. Significantly more false confessions were elicited using nonleading questions rather than repetitive questioning. More false confessions were elicited in the friendly interviewer condition than in the stern interviewer condition. Neither interviewer manner nor questioning technique had a significant effect on subjective ratings of pressure to confess. The finding that false confessions may be elicited in the absence of coercive tactics may have implications for informing best practices in investigative interviewing.

It takes two: The round-robin methodology for investigative interviewing research.Open Access

Hudson, Charlotte A., et.al.

Frontiers in Psychology, Vol 9, Nov 13, 2018. ArtID: 2181

Abstract:

Investigative interviews are complex, dyadic, and social interactions typically studied by evaluating interviewers' questioning strategies. In field settings, interviewers naturally vary in their interviewing practice. Thus, it is important to conduct research reflective of idiosyncrasies in witnesses, interviewers, and the resulting unique pairings. This study explored sources of variation in an interview by using a 'round-robin' design. Each session of the study involved five witnesses observing five separate events. Witnesses were then simultaneously, but independently interviewed by four different interviewers, or completed a self-administered written interview. This sequence was repeated until each witness had seen every event and had been interviewed by each interviewer. Over nine sessions (N = 45) this produced 225 total interviews. Individual interview performance (accuracy and level of detail) as well as experience (subjective ratings) were then analyzed in relation to the typical performance of the interviewer, the witness, the event, and the unique paring. We found that witnesses and interviewers could have an effect on statement quality; however, the unique interview experience variance had the greatest influence on interview performance. This study presents the round-robin methodology as a useful tool to study realistic variation in interviewer, witness, and dyad behavior.

Enhancing cooperation and disclosure by manipulating affiliation and developing rapport in investigative interviews.

Brimbal, Laure, et.al.

Psychology, Public Policy, and Law, Vol 25(2), May, 2019. pp. 107-115.

Abstract:

We sought to identify motivations to resist cooperation in intelligence interviews and develop techniques to overcome this resistance. One source of resistance can arise because of concerns for affiliations (e.g., 'I do not want to inform on my friends/family/fellow countryman'). We investigated two avenues of rapport building—approach and avoidance—designed to overcome this concern. In a modified cheating paradigm, our participants (N = 116) became affiliated with a confederate who they then witnessed cheating. Participants were interviewed about the event in a 2 (approach: present vs. absent) × 2 (avoid: present vs. absent) design. The interviewer used either an approach technique that aligned them with the interviewer (portrayed as a morally good person) or an avoid technique that moved them away from the culprit (portrayed as nefarious), neither, or both. The approach technique increased rapport between the interviewer and participant. However, the avoid technique decreased the amount information elicited. When submitted to a mediation model, the approach technique had a positive indirect effect on information

yield via perceived rapport and cooperation, while this was not the case for the avoid technique. An exploratory moderator analysis revealed that sympathy for the confederate moderated the effect of the avoid technique on information disclosed, where the more sympathy a participant felt for the confederate, the less information he or she provided. Implications for interviewing are discussed.

Who said what and when? A timeline approach to eliciting information and intelligence about conversations, plots, and plans.

Hope, Lorraine, et.al.

Law and Human Behavior, Vol 43(3), Jun, 2019. pp. 263-277.

Abstract (English):

The verbal content of interactions (what was said and who said what) can be important as evidence and intelligence information. Across 3 empirical studies, we examined memory for details of an overheard (Experiment 1) or witnessed (Experiments 2 and 3) conversation using a timeline technique adapted for the reporting of conversations between multiple speakers. Although participants in all conditions received the same general instructions, participants assigned to timeline reporting format reported more verbatim information and made fewer sequencing errors than those using a free recall format. In Experiments 2 and 3, using an extended version of the technique, participants using the timeline reporting format also reported more correct speaker attributions and provided more information about the individuals involved, without compromising overall accuracy rates. With a large effect size across experiments (total N = 134), these findings suggest that timeline reporting formats facilitate the reporting of episodic memories and benefit the reporting of conversations.

'I think you did it!': Examining the effect of presuming guilt on the verbal output of innocent suspects during brief interviews.

Authors:

Portnoy, Shiri, et.al.

Journal of Investigative Psychology and Offender Profiling, Vol 16(3), Oct, 2019. pp. 236-250.

Abstract:

Innocent suspects interviewed by a guilt-presumptive versus innocence-presumptive or neutral interviewer may tend more to display non-verbal behaviours which neutral judges consider indicative of guilt. We examined the effects of interviewer's presumption of guilt on innocent mock suspects' alibis. Participants (N = 90) provided an alibi to convince an interviewer of their innocence of a theft after she implied that she believed that they were guilty or innocent or that she had no belief about their veracity. On the basis of existing conflicting findings for suspects' verbal behaviour during accusatory interviews, we predicted that alibis in the guilt-belief condition would contain the highest or lowest number of correct details with overall higher or poorer accuracy rates, respectively. Although participants perceived the interviewer's presumptive approach, the number of correct details provided and accuracy rates of alibis did not differ significantly between conditions. We propose explanations to these findings and future research paths.

Trial of three investigative interview techniques with minimally verbal adults reporting about occurrences of a staged repeated event.

Bearman, Madeleine, et.al.

Psychology, Public Policy, and Law, Vol 25(4), Nov, 2019. pp. 239-252.

Abstract:

The current study explored the effectiveness of three interview protocols on the number and specificity of details provided by minimally verbal adults about a staged repeated event. Eighty adults (with expressive sentence length of around 5 words, matched on

measures of expressive language and intellectual functioning) participated in 3 live events and were pseudorandomly assigned to receive 1 of 3 interviews. The narrative-first protocol exhausted recall with open-ended questions before focused questions were asked, the intermixed protocol paired open-ended questions immediately followed by related focused questions, and the visual cues protocol mimicked the narrative-first protocol but with the use of cue cards. Overall, participants reported more correct information about the last occurrence in the intermixed and visual than narrative-first interview. The narrative-first interview elicited fewer internal intrusions (experienced details attributed to the wrong occurrence) compared with the visual, but not the intermixed, interview. Expressive language and intellectual function were positively associated with the reporting of event-related details. Providing information about repeated events was challenging for minimally verbal adults; reporting of generic event details was more frequent than occurrence-specific details, one third of participants answered a question about event frequency incorrectly (by saying they participated once), and the remaining participants provided few details about the other occurrences when directed to do so. Findings were consistent with the broader repeated event literature on children and adult witnesses recalling repeated events. This research provides guidance for investigative interviewers on how best to obtain accurate event-related information from minimally verbal adults about their experiences.

Rapport building in suspect interviewing: A comparison of relationship- and procedure-based approaches in a laboratory setting.

Huang, Kuan-Ju and Teoh, Yee-San.

Psychology, Public Policy, and Law, Vol 25(4), Nov, 2019. pp. 253-265.

Abstract:

Both researchers and practitioners have stressed the importance of developing rapport in the investigative interviewing of criminal suspects. There is, however, no clear definition of what constitutes rapport and ways of achieving and maintaining rapport. Most research on rapport building with suspects have focused on a positive personal bond between the investigator and suspect (i.e., relationship-based approach), while more recent research suggests the merits of a neutral type of rapport building that focuses on developing a mutual understanding of the interrogation process and roles (i.e., procedure-based approach). The present study thus aimed to examine the effects of relationship- and procedure-based rapport building approaches on suspect interviewing outcome. Using a modified version of Russano, Meissner, Narchet, and Kassin's (2005) cheating paradigm, 'guilty' participants were interviewed using different rapport building approaches in a laboratory setting. We found that participants were more likely to confess in the procedure-based condition than in the relationship-based and control conditions. However, both approaches did not have an effect on the number of details participants were willing to disclose. We also found that the procedure-based approach affected participants' perception about the evidence. Theoretical and practical implications for rapport building in suspect interviewing are discussed.

Using the Reality Interview improves the accuracy of the Criteria-Based Content Analysis and Reality Monitoring.Open Access

Bogaard, Glynis, et.al.

Applied Cognitive Psychology, Vol 33(6), Nov-Dec, 2019. pp. 1018-1031.

Abstract:

Active interviewing approaches can exploit the verbal differences between truthtellers and liars, thus improving detecting deception. One such method is the Reality Interview (RI) aimed to facilitate recall from truthtellers, while increasing the difficulty for liars. This study investigated whether the RI could improve the diagnostic accuracy of the Reality

Monitoring and the Criteria-Based Content Analysis. Liars and truthtellers were either asked to freely recall an event or interviewed with the RI. As hypothesized, the RI improved the discriminability of Reality Monitoring and Criteria-Based Content Analysis over Free Recall. Honest responses were longer, and the RI increased the word count difference between honest and false statements. However, after correcting for word count, results were no longer significant, showing its importance for deception detection. Nonetheless, the RI increased verbal differences between truthtellers and liars, demonstrating that using the RI with verbal credibility assessment tools is a powerful combination for investigative interviewing.

Challenges of a 'toolbox' approach to investigative interviewing: A critical analysis of the Royal Canadian Mounted Police's (RCMP) Phased Interview Model.

Snook, Brent, et.al.

Psychology, Public Policy, and Law, Vol 26(3), Aug, 2020. pp. 261-273.

Abstract:

The Royal Canadian Mounted Police (RCMP) implemented the Phased Interview Model in Canada and has argued that it is a novel and productive way to interview suspects. We applaud the RCMP for moving away from an accusatorial approach and recognize that the Phased Interview Model contains several science-based practices. In this article, however, we evaluate the Phased Interview Model critically. In particular, we present compelling empirical evidence that **3 fundamental practices (minimizing culpability, mischaracterizing evidence, and asking leading questions) in the Phased Interview Model put the truth-seeking function of police interviews at risk.** We also explore the challenges inherent in combining accusatorial and information gathering techniques into a hybrid toolbox approach. We conclude that advocating for an interview protocol that contains dangerous or untested practices may hinder the RCMP's ability to achieve their purported goals of obtaining voluntary statements and accurate information.

How guilty and innocent suspects perceive the police and themselves: Suspect interviews in germany.

May, Lennart, et.al.

Legal and Criminological Psychology, Oct 19, 2020.

Abstract:

Purpose Suspects are central participants of a police interview and can provide crucial information on the interview interactions with the interviewers. This study examined how the way suspects perceive interviews relates to (a) their reported status of being guilty or innocent and (b) their decision to confess or deny. Methods A total of 250 convicted offenders completed a two-part questionnaire on their perceptions during the most recent suspect interview in which they had confessed to or denied a crime they had committed (Part 1) or not committed (Part 2). Results Participants reported a total of 334 police interviews – 223 for which they reported being guilty and 111 for which they reported being innocent. An exploratory factor analysis showed that three latent factors described how they viewed the interviewers and themselves: Respectful-Open Behaviors (non-accusatorial interviewer behaviour, and no pressure in suspects), Confession-Oriented Tactics by the interviewer (minimization and maximization tactics), and Suspects' Psychological Distress (insecurity, fear, and lack of self-confidence). Suspects perceived less Psychological Distress and less Respectful-Open Behaviors in reported innocent (vs. guilty) interview situations. In reported guilty interview situations, confessions were associated positively with Respectful-Open Behaviors and Suspects' Psychological Distress, whereas denials were associated positively with Confession-Oriented Tactics. Innocent interview situations showed a positive correlation between confessions and

Suspects' Psychological Distress. Conclusions In this study, suspects deliver an important message to the police and the legal system: The findings substantiate the benefits of an open-minded interviewing approach, and fail to support a confession-oriented interrogation approach.

A meta-analytic review of the self-administered interview©: Quantity and accuracy of details reported on initial and subsequent retrieval attempts.

Horry, Ruth, et.al.

Applied Cognitive Psychology, Nov 5, 2020.

Abstract:

The Self-Administered Interview (SAI©) is designed to elicit detailed witness reports in the aftermath of incidents. In two sets of meta-analyses, we compared the number of correct details reported, the number of incorrect details reported, and the accuracy of reports provided by witnesses in initial reports (SAI© vs. other reporting formats) and in subsequent accounts (initial SAI© vs. no initial SAI©). The number of comparisons ranged from 15 to 19, (N = 722 to 977). For initial accounts, the SAI© was associated with more correct details and more incorrect details than other reporting formats; accuracy was slightly lower for the SAI© than for other reporting formats. Subsequent accounts were more detailed and accurate for witnesses who had completed an initial SAI© than for those who had not. The SAI© is an effective tool for capturing detailed initial accounts and for preserving witness memory until a formal interview can be conducted.

A meta-analytic review of the timing for disclosing evidence when interviewing suspects.

Oleszkiewicz, Simon and Watson, Steven J.

Applied Cognitive Psychology, Dec 8, 2020.

Abstract:

This meta-analytic review examines the most fundamental question for disclosing evidence during suspect interviews: What are the effective options for when to disclose the available evidence? We provide an update to Hartwig and colleagues (2014) meta-analysis of the efficacy of the late and early disclosure methods on eliciting statement-evidence inconsistencies from guilty and innocent suspects. We also extend these analyses to include studies comparing gradual disclosure to early and late disclosure when interviewing guilty suspects. Finally, we test whether a gradual disclosure leads to greater provision of novel investigative information when interviewing guilty suspects. Overall, we find that guilty suspects provide more statement-evidence inconsistencies than innocent suspects, and that both a late and gradual disclosure result in more statement-evidence inconsistencies than the early disclosure when interviewing guilty suspects. However, there are indications of small study effects that warrant considerable caution when interpreting the size of some of the identified effects.

Assessing the diagnosticity of a persuasion-based and a dialogue-based interrogation approach.

Eastwood, Joseph, et.al.

Journal of Police and Criminal Psychology, Oct 20, 2020.

Abstract:

The current study assessed the relative propensity of a persuasion-based and a dialogue-based interrogation approach to generate true and false confessions (i.e., their diagnosticity). Following the Russano cheating paradigm, participants were first either induced or not induced to cheat on an experimental task to create innocent and guilty conditions. An experimenter, blind to the participants' guilt or innocence, then attempted to generate a confession using a persuasion-based or a dialogue-based interrogation approach. **Chi-square analyses showed that both interrogation approaches generated**

an equally high proportion of true confessions from guilty participants (95% for both approaches; p = 0.942) **but that the persuasion-based approach generated substantially more false confessions from innocent participants than the dialogue-based approach (45% vs. 0%**, respectively; p = 0.001). The dialogue-based approach's clear advantage over the persuasion-based approach in this study adds to the call for law enforcement organizations to utilize dialogue-based approaches within real-world interrogations.

Research on the PEACE Technique

Fraud and PEACE: Investigative interviewing and fraud investigation.
Shawyer, Andie, et.al.
Crime Prevention and Community Safety, Vol 9(2), Apr, 2007. pp. 102-117.
Abstract:

The adaptation and application of the 'PEACE' framework for investigative interviewing in public sector counter-fraud was intended to create a more professional body of trained counter-fraud interviewers and a more standardized interview model. This paper discusses the importance of interviewing in the investigation process, with specific reference to fraud. Specifically, it will examine the Department for Work and Pensions public sector agency. It examines how successfully the PEACE model can fit into fraud investigative interviewing, and investigates the attitudes and perceptions of fraud investigators to the PEACE framework as applied to the fraud interview. The paper refers to research indicating that PEACE Is not being consistently applied in all interviews, and that some elements of the model might work better than others in relation to fraud interviews. Further, the paper highlights the mixed reaction of investigators to using the model, and leads to the proposition that perhaps the model needs to be adapted to 'fit' fraud interviews.

Keeping the PEACE? A study of investigative interviewing practices in the public sector.
Walsh, David W. and Milne, Rebecca.
Legal and Criminological Psychology, Vol 13(1), Feb, 2008. pp. 39-57.
Abstract:

Purpose. This study examined the interviewing ability of benefit fraud investigators, specifically examining the effects of training in the PEACE model. This model, preferred by the British police, is a mnemonic for the interview process: planning and preparation, engage and explanation, account, closure, and evaluation. Methods. An analysis was undertaken of 99 audiotapes of real-life interviews with benefit fraud suspects, comparing performance levels between trained and untrained investigators, using an assessment scale consisting of 56 behavioural and procedural elements adapted from Clarke and Milne (2001). Results. Some improvements were found in performance amongst the trained investigators notably with good practices being seen in the effective use of 'open' questions which facilitated increased information from suspects, in addition to a comprehensive fulfilment of the necessary legal requirements. Additionally, only rare occurrences were found of any unethical practices. However, the study also found little evidence of planning which was thought to affect interview content particularly in relation to their structure and flexibility. Concerns were also found with (i) shortfalls in rapport building, (ii) insufficient coverage of the points that required proving, (iii) failures to completely explore the suspect's motive and (iv) the lack of summarizing during the interview. Conclusions. The research found some performance improvement after interview training but this was insufficient to suggest a general trend towards increased professionalism. A need for further training was identified, both in the PEACE model and in other appropriate interviewing skills.

Interviewing suspects: Practice, science, and future directions.
Kassin, Saul M., et.al.
Legal and Criminological Psychology, Vol 15(1), Feb, 2010. pp. 39-55.
Abstract:

Crime suspects in the USA are typically questioned in a two-step process aimed, first, at behavioural lie detection during a pre-interrogation interview, followed by the elicitation of a confession during the interrogation itself (in Great Britain, the practice of investigative interviewing does not make this sharp distinction). Research conducted on the first step

shows that police investigators often target innocent people for interrogation because of erroneous but confident judgments of deception. Research on the second step shows that innocent people are sometimes induced to confess to crimes they did not commit as a function of certain dispositional vulnerabilities or the use of overly persuasive interrogation tactics. Citing recent studies, this paper proposes that laboratory paradigms be used to help build more diagnostic models of interrogation. Substantively, we suggest that the British PEACE approach to investigative interviewing may provide a potentially effective alternative to the classic American interrogation. As a matter of policy, we suggest that the videotaping of entire interrogations from a balanced camera perspective is necessary to improve the fact finding accuracy of judges and juries who must evaluate confession evidence in court.

What really is effective in interviews with suspects? A study comparing interviewing skills against interviewing outcomes.

Walsh, Dave and Bull, Ray.

Legal and Criminological Psychology, Vol 15(2), Sep, 2010. pp. 305-321.

Abstract:

Purpose: The present study examines whether interviewing in a manner that is compatible with a recommended model of interviewing (called the 'PEACE' model) impacts on outcomes of the interviews examined in contrast to prior studies which have usually been concerned whether the conducted interviews were fair and not coercive or whether there had been positive effects of training upon subsequent interview performance.

Methods: This study, examining in detail 142 actual suspect interviews, is set in the barely researched area of social security benefit fraud, reflecting current trends in Britain concerning increasing numbers of interviews with suspects undertaken by public sector organizations and the pluralization of policing.

Results: It was found that good interviewing in each of the recommended stages that make up the PEACE model generally led to better interviews, indicating the importance that each stage contributes to overall interview quality. Further, the quality of interviews was compared against a range of interview outcomes and it was found that skilled PEACE interviewing was associated with the securing of full accounts, including confessions.

Conclusion: Given the few examples of skilled interviewing found in the study it is argued that further training of investigators is necessary to improve both interviewing performance and organizational outcomes.

Interviewing suspects of crime: The impact of peace training, supervision and the presence of a legal advisor.

Clarke, Colin, et.al.

Journal of Investigative Psychology and Offender Profiling, Vol 8(2), Jun, 2011. pp. 149-162.

Abstract:

In 1992, the police service of England and Wales adopted PEACE as a framework for interviewing suspects. This study was to evaluate the impact of PEACE interview training, workplace supervision and the presence of a legal advisor on the performance of police officers' interviewing suspects. One hundred seventy-four real-life interviews with suspects were obtained from six police forces in England and Wales. Officers trained and untrained in PEACE, and from police forces that did or did not have an interview supervision policy conducted the interviews. Interviews in this sample were generally of average standard. Whilst PEACE-trained officers conducted longer interviews, there were no other statistical differences dependent on training. Nor were there any statistical differences dependent on the presence of a legal advisor. A workplace supervision policy was found to be related to performance, particularly during the engage and explain phases

of the interview. Supervision also appeared to provide some safeguards for suspects who did not have a legal advisor. Because the performance of PEACE-trained officers did not differ from those who had not received this training, further improvement in training is needed, especially regarding a number of communication skills. It is argued that such improvement would be facilitated by a more consistent approach to interviewer training and to the effective supervision of interviews.

How do interviewers attempt to overcome suspects' denials?
Walsh, Dave and Bull, Ray.
Psychiatry, Psychology and Law, Vol 19(2), Apr, 2012. pp. 151-168.
Abstract:

Whilst earlier studies of interviews with suspects have tended to focus upon the causes of false confessions, few have considered how to overcome false denials and obtain true confessions. The present study of 85 interviews with suspects of benefit fraud examined interviewer skill levels of tactics and attitudes (and the extent of their usage and presence) along with measuring any associated movement made towards confession. The study also examined whether or not the weight of evidence, found in prior studies to be a key factor in confessions, played a role when suspects made admissions to wrongdoing. It was found that confessions more likely occurred when skilful interviewer displays of certain tactics and attitudes were increasingly demonstrated, many of which are recommended by the PEACE interviewing framework, developed in England and Wales, whereas the weight of evidence alone was not an influential factor.

PEACE in fraud interviews: Assumptions and detection of guilt and the impact on interviewer behaviour.
Shawyer, Andrea and Milne, Rebecca.
Crime Prevention and Community Safety, Vol 17(1), Feb, 2015. pp. 30-46.
Abstract:

A survey was conducted in the United Kingdom to identify the beliefs and attitudes of Department for Work and Pensions and police fraud investigators towards the PEACE model of interviewing with particular focus on assumptions of guilt, interviewer characteristics and detecting deception. There was support for the usefulness of the PEACE model for fraud interviews, although assumptions of guilt before these interviews were widespread. This finding was coupled with stereotypical beliefs about cues to deception, despite a general view that open mindedness and good listening skills were key features of a good interviewer. It was concluded that the way in which fraud investigations are carried out challenges the expectation that the interviewer will not assume guilt before the interview but does not necessarily challenge the expectation that the interviewer will have an open-minded and non-judgemental attitude. Beliefs about cues to deception should be challenged and substituted for more reliable indicators.

How intuitive is PEACE? Newly recruited police officers' plans, interviews and self-evaluations.
Scott, Adrian J., et.al.
Psychiatry, Psychology and Law, Vol 22(3), May, 2015. pp. 355-367.
Abstract:

The purpose of this study is to examine the spontaneous interviewing skills of 43 newly recruited police officers (i.e., untrained recruits) with reference to the five stages of the internationally adopted PEACE model of interviewing (Preparation and planning; Engage and explain; Account, clarification and challenge [Account]; Closure; and Evaluation). University students acted as witnesses and watched a short video of a mock assault before being individually interviewed by one of the recruits. The recruits' resulting plans,

interviews and self-evaluations were then coded to determine how closely they adhered to the PEACE model. The recruits focused on the Account stage in their plans and interviews with little attention given to the Engage and explain or Closure stages of the model. In self-evaluations of their interviews, the recruits recognised the need to further develop aspects of the Engage and explain and Closure stages. These new findings can be used to ensure interview training is presented at a suitable level and targets the least intuitive aspects of the interview process.

Investigative practice.
Authors:
Oxburgh, Gavin E. and Hynes, Ian.
Witness testimony in sexual cases: Evidential, investigative and scientific perspectives. Radcliffe, Pamela, (Ed); Gudjonsson, Gisli, (Ed); Heaton-Armstrong, Anthony, (Ed); Wolchover, David, (Ed); pp. 221-233; New York, NY, US: Oxford University Press; 2016. xlii, 413 pp.
Abstract:

Conducting sexual offence investigations is not as straightforward a task as some may think. The importance of understanding the fallibility of memory, the debate surrounding false and recovered memories, especially when investigating allegations of historical child sexual abuse, cannot be underestimated. The PEACE model of interviewing and ABE framework highlight how much the police service in England and Wales have developed both professionally and morally, no longer using cohersive and psychologically unsafe tactics to obtain information from victims, witnesses, and suspects of crime. Carefully planning and preparing effectively for an interview is fundamental to its overall efficacy with the potential to impact on numerous elements of the Interview process itself. This is especially so for the most vulnerable.

PEACE-ful interviewing/interrogation: What research can tell us.
Bull, Ray.
Diversity in harmony - Insights from psychology: Proceedings of the 31st International Congress of Psychology. Shigemasu, Kazuo, (Ed); Kuwano, Sonoko, (Ed); Sato, Takao, (Ed); Matsuzawa, Tetsuro, (Ed); pp. 191-210; New York, NY, US: John Wiley & Sons Ltd; 2018. xviii, 475 pp.
Abstract:

In many countries, the traditional way that investigators have interrogated those whom they suspect of having information relevant to possible wrongdoing has involved a pressurizing or oppressive approach. Interviews with suspects and with witnesses/victims are of utmost importance to society. They have, therefore, attracted extensive attention worldwide from the general public and the media as well as from professionals, such as lawyers and a few psychologists. The PEACE approach is based on a number of basic principles that were chosen by the police. This PEACE approach has also been adopted by many other investigative agencies in the UK and a growing number of organizations around the world.

Bringing PEACE to the United States: A Framework for Investigative Interviewing
Mary Schollum, Policing and Criminal Justice Consultant, Cambridge, England
THE POLICE CHIEF/NOVEMBER 2017, www.policechiefmagazine.org
EXCERPTS:

Information determines the direction and outcome of any investigation. With police investigations, a significant portion of the information collected comes from interviews with victims, witnesses, and suspects, which means these interviews must be skill- fully performed. However, few investigators have an innate ability to carry out investigative interviews with the necessary levels of skill and sensitivity expected by the public and the criminal justice system—it takes training and practice to develop this ability.

Evidence suggests that the PEACE framework for investigative interviewing can support such efforts. The model was developed almost 25 years ago for use by police in England and Wales. Its subsequent adoption by Scotland and Northern Ireland saw it become the interviewing method for the entire United Kingdom, and it has since been adopted by other countries. Although PEACE was developed by and for the police, the considerable body of research into its use makes it clear it can be used by any organization that has to discover facts—for example, investigations related to fraud, immigration, and employment.

Despite widespread adoption by the United Kingdom and increasing interest in PEACE among academic and law enforcement circles, the model has not yet been implemented by U.S. law enforcement. Research on the impact of current interrogational practices on the rates of false confessions and wrongful convictions suggests that the PEACE framework may be of benefit to the U.S. law enforcement community. This article considers what PEACE might offer the United States and provides information and recommendations based on the United Kingdom's experience in adopting the model.

UK Investigative Interviewing Practice

Until 30 or so years ago, interviews of suspects in the United Kingdom were based on the notion of "interrogation" whereby police used an array of tactics designed to elicit a confession.1 The turning point came in 1984, when the Police and Criminal Evidence Act (PACE) was enacted. Among other changes, the new law introduced stricter controls over police questioning, including audio recording of all suspect interviews, the right to legal representation for suspects, and limits on detention before charge.

These moves did not at first lead to a change in interview training or practices.2 However, a number of high-profile miscarriages of jus- tice (notably the Birmingham Six and Guildford Four cases, where the suspects' confessions were later found to have been coerced by police misconduct), led to widespread judicial and public criticism.

As a result, in 1992, the Association of Chief Police Officers and the Home Office put together a team of experienced police officers to develop interview training that was noncoercive, ethically sound, and evidence based. With input from psychologists, lawyers, and academics, the result was the five-stage interview model known by the mnemonic PEACE. The letters of PEACE stand for

- Planning and Preparation
- Engage and Explain
- Account (Clarification and Challenge)
- Closure
- Evaluation

A pilot course of PEACE was run in four locations during the summer of 1992 and subjected to independent evaluation.3 The positive findings led to a training package that was initially delivered to officers with five to ten years of experience. The training was held in such high regard that it was eventually extended to all operational law enforcement officers in England and Wales.4 While continuous research and evaluation over the years have led to improvements of the PEACE model, the basic structure remains unchanged.

The PEACE Model

Figure 1 shows the five elements of the PEACE model. They cover the periods before, during, and after the interview and comprise the overarching framework used for all interviews with victims, witnesses, and suspects. The aim of PEACE is to enable interviewers to obtain accurate, relevant, and complete accounts from those being interviewed—and to ensure those accounts are admissible as evidence.

Depending on the type of interview, the PEACE framework contains a range of scientifically proven techniques for interviewers to draw on. These include free recall (FR), the enhanced cognitive interview (ECI), and conversation management (CM). While FR and the ECI are used mainly for victim and witness interviews, CM is used mainly for suspect interviews. Within those techniques, interviewers use a range of different tactics, such as active listening, use of pauses and silence, body language, different types of questions, memory jogs, seating arrangements, and so forth. The type of interview determines the level of training the interviewer must have and which techniques should be employed.

Evaluation and Research Regarding PEACE

Early evaluations of PEACE as an interviewing framework were positive. It was seen as providing a logical structure, and the five stages were easy for investigators to remember.9 Subsequent assessments have continued to praise PEACE as an overarching model but have also highlighted certain shortcomings. For example, a three-year study published in 2001, concluded that interviewers were expected to learn too much from just a one-week training course.10 The researchers recommended implementation of a tiered approach to PEACE training.11 This approach (with its mixture of theory and practice) was introduced in 2003 and remains in place today. Tiered training is seen as a fundamental requirement.

Though police interrogation in America has begun to change to adopt less confrontational and deceptive methods (Meissner et al., 2017; Snook et al., 2020),

Meissner, C. A., Surmon-Bohr, F., Oleszkiewicz, S., & Alison, L. (2017). Developing an evidence-based perspective on interrogation: A review of the U.S. government's High-Value Detainee Interrogation Group research program. Psychology, Public Policy, & Law, 23, 438-457. https://doi.org/10.1037/law0000136

Developing an evidence-based perspective on interrogation: A review of the U.S. government's high-value detainee interrogation group research program.

Meissner, Christian A., et al.
Psychology, Public Policy, and Law, Vol 23(4), Nov, 2017. Special Issue: Psycho-legal Researchers' Impact on Policies and Legal Practices: Past and Future. pp. 438-457.

Abstract:

Interrogation practices in the United States have been roundly criticized both for their accusatorial ethos, at times leading to false confessions by the innocent, and for a history of applying physical and psychological coercion in law enforcement, military, and intelligence contexts. Despite decades of psychological research demonstrating the failures of such approaches and despite recent positive advances in countries such as the United Kingdom moving to an information-gathering framework, little change has occurred in the training or practice of U.S. interrogation professionals over the past 50 years. This article describes recent historical events that have led to the development of the first unclassified, government-funded research program on the science of interviewing and interrogation. Since 2010, the High-Value Detainee Interrogation Group (HIG) research program has identified effective approaches for developing cooperation and rapport, eliciting information, challenging inconsistencies by presenting evidence or information strategically, and assessing credibility using cognitive cues and strategic questioning tactics. The program has also examined the influence of culture and language, and has facilitated the translation of research from the laboratory to the field. In this context, we review the significant contributions of psychologists to understanding and developing ethical, legal, and effective interrogation practices, and we describe important future directions for research on investigative interviewing and interrogation.

Snook, B., Barron, T., Fallon, L., Kassin, S. M., Kleinman, S., Leo, R. A., Meissner, C. A., Morello, L., Nirider, N., Redlich, A. D., & Trainum, J. L. (2020). Urgent issues and prospects in reforming interrogation practices in the United States and Canada. Legal and Criminological Psychology. Advance online publication. http://doi.org/10.1111/lcrp.12178

Urgent issues and prospects in reforming interrogation practices in the united states and canada.

Snook, Brent, et al.
Legal and Criminological Psychology, Jul 19, 2020. ArtID: e12178

Abstract:

The current article presents a series of commentaries on urgent issues and prospects in reforming interrogation practices in Canada and the United States. Researchers and practitioners, who have devoted much of their careers to the field of police and intelligence interrogations, were asked to provide their insights on an area of interrogation research that they believe requires immediate attention. The submitted independent commentaries covered a variety of topics – from police recruitment, interrogation training, use of proper interrogation practices, and the treatment of confession evidence in court. Common concerns from the contributions pertained to the lag between scientific knowledge on

interrogations and the application of such knowledge in the justice system, and the glaring disparity between the treatment of similar issues in the interrogation context versus other criminal justice contexts. A primary intent of this collection of commentaries is to serve as a resource pointing researchers in the direction of the fundamental areas that require immediate consideration and encouraging them to simultaneously pursue solutions to the overarching concerns that emerged from this project.

Assessing the Diagnosticity of a Persuasion-Based and a Dialogue-Based Interrogation Approach

Joseph Eastwood, 2020

Journal of Police and Criminal Psychology

The current study assessed the relative propensity of a persuasion-based and a dialogue-based interrogation approach to generate true and false confessions (i.e., their diagnosticity). Following the Russano cheating paradigm, participants were first either induced or not induced to cheat on an experimental task to create innocent and guilty conditions. An experimenter, blind to the participants' guilt or innocence, then attempted to generate a confession using a persuasion-based or a dialogue based interrogation approach. Chi-square analyses showed that both interrogation approaches generated an equally high proportion of true confessions from guilty participants (95% for both approaches; $p = 0.942$) but that the persuasion-based approach generated substantially more false confessions from innocent participants than the dialogue-based approach (45% vs. 0%, respectively; $p = 0.001$). The dialogue-based approach's clear advantage over the persuasion-based approach in this study adds to the call for law enforcement organizations to utilize dialogue-based approaches within real-world interrogations.

- The predominant interrogation approach utilized in North America today is the Reid Technique and similar accusatorial style approaches (Inbau et al. 2011; Miller et al. 2018). The Reid technique can be classified as a persuasion based approach as it uses psychologically manipulative tactics to try and generate confessions from suspects deemed likely to be guilty (Meissner and Russano 2003).
- These tactics include having the interrogator stress that they are certain of the guilt of suspect at the beginning of the interrogation (e.g., "There is no doubt in my mind that you took the money"; direct positive confrontation), providing face-saving justifications that minimize and normalize the crime (e.g., "Maybe you just took the money to help buy food for your family; theme development), not allowing the suspect to voice denials regarding their involvement in the crime, and eventually presenting the suspect with two options for why they committed the crime, one reprehensible and one understandable (e.g., Did you steal the money to buy drugs, or to buy food for your family?; alternative question). It is argued that systematic application of these tactics through the Reid technique's nine-step process will cause many suspects to confess to their involvement in a criminal offence (Inbau et al. 2011).
- Kassin and Kiechel (1996) found that over 90% of participants falsely confessed to making a computer crash when presented with untrue inculpatory evidence.
- a collaboration of academics and law enforcement officers in the UK created the PEACE model of investigative interviewing in the early 1990s (see Snook et al. 2010). PEACE is an acronym for the five stages of the interview process: Preparation and Planning, Engage and Explain, Account, Closure, and Evaluation. The PEACE model is an inquisitorial method that employs a noncoercive information gathering approach to interviewing all interviewee types (Meissner and Russano 2003; Snook et al. 2010; Gudjonsson and Pearse 2011).

- Unlike the Reid technique and similar approaches, PEACE contains no tactics designed to explicitly generate an admission or confession from the suspect and instead focuses primarily on generating dialogue with a suspect which can then be compared with the existing case evidence to determine veracity (see Centrex 2004).
- Analyses of confession rates in the UK before and after the implementation of the PEACE model, however, show similar rates of confessions (Hartwig et al. 2005).
- A fundamental feature of an effective interrogation approach is its *diagnosticity* - the ability to generate true confessions from guilty suspects while not generating false confessions from innocent suspects.
- The sample consisted of 80 students
- The two interrogation scripts were designed to represent either a persuasion-based approach or a dialogue-based approach. Both approaches contained two pieces of evidence that supported the experimenter's belief in the participant's guilt—identical wrong answers on a specific question in the individual problem-solving task and that the confederate suggested to the experimenter that the participant had in fact helped on that question. In the persuasion-based approach, the experimenter used the following script to try and elicit a confession:
- Both persuasion-based and dialogue-based approaches were highly effective at eliciting true confessions - approximately 95% of guilty participants in both conditions confessed.
- The persuasion-based approach elicited substantially more false confessions than the dialogue-based approach (45% vs. 0%, respectively).
- There was a notable difference across interrogation conditions for innocent participants. Specifically, almost half of the participants in the persuasion-based condition provided a false confession compared with no false confessions within the dialogue based condition.
- Not a single participant in the innocent condition provided a false confession—despite this appearing to be a key motivator for guilty participants to confess

The social psychology of false confessions: Compliance, internalization, and confabulation.
Kassin, Saul M. and Kiechel, Katherine L.
Psychological Science, Vol 7(3), May, 1996. pp. 125-128.
Abstract:

Examined whether the presentation of false incriminating evidence can lead people who are vulnerable (i.e., in a heightened state of uncertainty) to confess to an act they did not commit and to internalize the confession and perhaps confabulate details in memory consistent with that new belief. 75 Ss in a fast- or slow-paced reaction time (RT) task were accused of damaging a computer by pressing the wrong key. All were truly innocent and initially denied the charge. A confederate then said she saw the S hit the key or did not see the S hit the key. Compared with Ss in the slow pace/no-witness group, those in the fast-pace/witness group were more likely to sign a confession, internalize guilt for the event, and confabulate details in memory consistent with that belief. Both legal and conceptual implications are discussed.

False confessions in the lab: Do plausibility and consequences matter?
Horselenberg, Robert, et. al.
Psychology, Crime & Law, Vol 12(1), Jan, 2006. pp. 61-75.
Abstract:

The present paper describes three studies that examined false confessions in the laboratory. Studies 1 (N = 56) and 2 (N = 9) relied on the by now classic computer crash paradigm introduced by Kassin and Kiechel (*Psychological Science, 7*, 125-128, 1996). Study 3 (N = 12) employed a novel paradigm in which undergraduate participants were falsely accused of exam fraud. Our data indicate that false confessions do occur, even when conditions become more ecologically valid. Furthermore, we explored whether individual differences in compliance, suggestibility, fantasy proneness, dissociation, and cognitive failures are related to false confessions. Of these, only fantasy proneness was associated with false confessions.

In the Courtroom

- Voluntariness Doctrine
- Confessions and Jury Reactions
- Videotaping Confessions
- Example of a Pretrial Motion
- Example of Crossing the Investigator
- Example of False Confession Testimony
- Legal Cases

Voluntariness Doctrine

Defensewiki.ibj.org explains:
Traditionally confessions have been considered the gold standard of evidence creating an almost irrebuttable proof of the defendant's guilt. This began to change in the 1800's when the U.S. Supreme Court first began to question strong-handed interrogation tactics:

> *A confession freely and voluntarily made is evidence of the most satisfactory character. But the presumption upon which weight is given; to such evidence -- namely that an innocent man will not imperil his safety or prejudice his interests by an untrue statement, ceases when the confession appears to have been made -- either in consequence of inducements of a temporal nature held out by one in authority, touching the charge preferred, or because of a threat or promise made by, or in the presence of, such person, in reference to such charge.* [1]

It wasn't until 1936 that the Supreme Court determined that involuntary confessions were abhorrent to the Due Process Clause of the 14th Amendment of the U.S. Constitution: [2].

> *Coercing the supposed state's criminals into confessions and using such confessions so coerced from them against them in trials has been the curse of all countries. It was the chief inequity, the crowning infamy, of the Star Chamber and the Inquisition, and other similar institutions. The constitution recognized the evils that lay behind these practices, and prohibited them in this country. . . . The duty of maintaining constitutional rights of a person on trial for his life rises above mere rules of procedure, and wherever the court is clearly satisfied that such violations exist, it will refuse to sanction such violations and will apply the corrective.* [3]

Confessions which are involuntary may be excluded from evidence unless the defendant opens the door to the admission of the confession. Recent studies have demonstrated that false confessions are a real and ever-present threat to fair adjudication of criminal cases.

The exclusion of involuntary evidence is premised on three principals. First, exclusion of involuntary confessions tends to deter police misconduct. Second, a confession should be freely made by a rational person. Finally, confessions obtained with duress are inherently unreliable.

Voluntariness is determined by a factfinder (judge or jury) by examining and taking into consideration the totality of the circumstances. [4]

Factors may include objective factors such as:

- Duration of the interrogation
- Length of pre-trial detention
- Place and conditions of interrogation
- Psychological threats
- Police conduct during interrogation
- Whether force or threat of force was used during interrogation.

Similarly, the factfinder must examine the defendant's subjective state of mind to determine whether given all those factors, the confessions was, in fact, involuntary. In doing so, they should consider the defendant's physical and mental characteristics: age, race, education, history and psychological state of mind during the interrogation.

Deception alone is usually not enough to warrant exclusion of a confession as involuntary. In Frazier v. Cupp [5], the U.S. Supreme Court upheld the admissibility of a confession when the police falsely told the defendant that his cousin had confessed to the crime. The Court held that deception was just one factor in the voluntariness test and that deception in and of itself was not dispositive.

In certain circumstances, police misconduct may be so egregious that the confession evidence should be excluded without regard for how that conduct affected the defendant.
See Confessions, McNabb-Mallory Rule

Notes

1. Hopt. v. Utah, 120 U.S. 430 (1887)
2. Brown v. Mississippi, 297 U.S. 278 (1936)
3. Brown v. Mississippi, 297 U.S. 278 (1936) quoting Fisher v. State, 145 Miss. 116, 134 (1926)
4. Haynes v. Washington, 373 U.S. 503 (1963)
5. Frazier v. Cupp, 394 U.S. 731 (1969)

Research/Publications on the Voluntariness Doctrine

It's Not Just About Miranda: Determining the Voluntariness of Confessions in Criminal Prosecutions
Paul Marcus
40 Val. U. L. Rev. 601 (2006).
Available at: https://scholar.valpo.edu/vulr/vol40/iss3/4

Abstract

This Article seeks to answer several key questions: Are the voluntariness rules still being broadly litigated? Do they have weight in many major cases, or are they of note simply in fringe areas? Finally, is the law regarding voluntariness any better than it was before Miranda, and is there now more certainty for law enforcement personnel, lawyers, and judges? This Article does not seek to extend the earlier, thoughtful proposals that had been made as to ways in which more definite standards and rules could be used. Also, this Article does not seek to determine whether current Fifth Amendment law results in serious consequences as to innocent parties confessing or the police being unduly handicapped in the investigative process. Rather, the purpose of this Article is to evaluate the law on voluntariness. To accomplish this, I have reviewed every reported state and federal appeals decision on voluntariness of the past twenty years. Tens of thousands of opinions dealing with confessions in criminal cases were examined, a good number of which mentioned voluntariness, but they did not truly explore the due process principles. Ultimately, I have read a few thousand opinions on point, dating from 1985 to present. The forthcoming Parts show that the key conclusions can be stated concisely. The voluntariness considerations remain a major matter in criminal prosecutions, and the substantive law in this area has not improved or become more definite over the past four decades. To that end, the analysis will begin with several major United States Supreme Court decisions and then look to the way in which state and federal judges continue to construe and apply those decisions.

Rethinking the Involuntary Confession Rule: Toward a Workable Test for Identifying Compelled Self-Incrimination
Mark A. Godsey

Cincinnati College of Law (2005). Faculty Articles and Other Publications. 92.
https://scholarship.law.uc.edu/fac_pubs/92

Abstract

For more than a century, the Supreme Court has interpreted the Bill of Rights as prohibiting the police from obtaining involuntary confessions from suspects through the use of coercion. If asked whether this involuntary confession rule is an understandable and workable doctrine, however, a noticeable percentage of judges, prosecutors, police officers, criminal defense attorneys and law professors would answer with an unequivocal no.

Basic questions concerning voluntariness and free will - whether it exists, and if so, when it exists, etc. - have puzzled philosophers for centuries and represent one of history's Gordian knots. Not surprisingly, judges have fared no better than philosophers in solving this age-old enigma since the Supreme Court first adopted voluntariness as the touchstone for constitutional confession law in 1897. The problems with the involuntary confession rule are well-documented and legion.

Given the pervasive problems with the involuntary confession rule in application, it is surprising how little mainstream attention has been given to its ascendancy to power and current doctrinal legitimacy. Indeed, although it currently lies at the foundation of confession law, it is unclear from which provision in the Bill of Rights it emanates. Some believe the Fifth Amendment's Privilege Against Compulsory Self-Incrimination demands a rule that involuntary confessions are inadmissible. Others would claim that the involuntary confession rule is derived from the Due Process Clauses of the Fifth and Fourteenth Amendments. Still others would argue that both the Privilege and the Due Process Clauses are identical in this respect, and work in tandem to prohibit involuntary confessions. It is as if the voluntariness test has ruled the roost for so long that its source and doctrinal validity are no longer questioned by courts or practitioners.

The thesis of this Article is that, due to legal and historical errors, the Supreme Court has unduly relied on the involuntary confession rule in confession jurisprudence for the past century. This unexplained adherence to the voluntariness test has caused the Court to ignore other important values and principles that should be considered and ultimately infused into the equation. These principles should be used to forge a new test for confession admissibility that either replaces the involuntary confession rule outright, or, at a minimum, supplements existing doctrine.

Four essential points support this thesis and form the foundation of this Article. The first point is that nothing in the Bill of Rights requires, or even suggests, a voluntariness test as the primary test for confession admissibility. At no point did the Framers engraft a voluntariness standard upon us, and, like a cruel joke, make the unsolvable puzzle of free will the unavoidable sine qua non in courtrooms and interrogation rooms for time immemorial. Indeed, the word voluntary and its various permutations do not even appear anywhere in the Bill of Rights. Second, the involuntary confession rule exists today because of a series of mistakes and doctrinal complications, beginning with Bram v. United States, the Supreme Court's first constitutional confession case, and continuing even after Miranda v. Arizona seemingly rendered the rule obsolete. Third, the text of the Privilege Against Compulsory Self-Incrimination suggests a standard based on compulsion, where the focus is on the objective behavior of the interrogators, rather than voluntariness, where the focus is on the subjective state of mind of the suspect. Such a test would be more faithful and consistent with existing interpretations of the Privilege in non-interrogation contexts as well as the text and historical origins of the Privilege. Fourth, a test for confession admissibility properly based on compulsion and the Privilege would differ in many

important respects from the involuntary confession rule. Although many scholars and even Supreme Court Justices who follow conventional wisdom might disagree, existing interpretations of the Privilege in non-interrogation contexts, the historical origins of the Privilege, the text of the Privilege, and relevant policy issues all argue to the contrary.

The Article then delineates a new confession test, called the objective penalties test, based on the Privilege, in which the touchstone for admissibility would be compulsion rather than voluntariness. This test would hold confessions inadmissible that had been obtained by imposing an objective penalty in any form on the suspect to punish silence or provoke speech. The Article develops the objective penalties test in detail through reference to the scholarly literature in the field of philosophy, where a rich standard has been created for determining when a coercive penalty has been imposed. Importing this philosophical literature into the realm of confession law, the Article attempts to create a workable standard for determining the admissibility of confessions. In an effort to demonstrate how this objective penalties test would work in practice, the Article sets forth numerous hypothetical interrogations and analyzes how these interrogation problems would be solved under the newly proposed test.

The Future of Confession Law: Toward Rules for the Voluntariness Test
Eve Brensike Primus
Michigan Law Review, Vol. 115, 2015
U of Michigan Public Law Research Paper No. 440
Abstract

Confession law is in a state of collapse. Fifty years ago, three different doctrines imposed constitutional limits on the admissibility of confessions in criminal cases: Miranda doctrine under the Fifth Amendment, Massiah doctrine under the Sixth Amendment, and voluntariness doctrine under the Due Process Clauses of the Fifth and Fourteenth Amendments. But in recent years, the Supreme Court has gutted Miranda and Massiah, effectively leaving suspects with only voluntariness doctrine to protect them during police interrogations. The voluntariness test is a notoriously vague case-by-case standard. In this article, I argue that if voluntariness is going to be the framework for confession law going forward, courts will need to disentangle the complex of values that is discussed under that heading and then use their clarified understanding as the basis for a judicially administrable rubric for regulating interrogation practices. As a matter of history and current practice, I argue that there are two different strands within voluntariness doctrine – one deontological strand that focuses on the offensiveness of the police methods used and one consequentialist strand that is concerned with the problem of false confessions. Courts could profit from disentangling those strands and creating different tests for each. Once the two strands are separated, voluntariness doctrine can move toward rules that are tailored to the distinctive values animating each strand. Toward that end, I propose different tests for determining the voluntariness of confessions going forward depending on which of the two strands is implicated in a given case.

Rethinking the Involuntary Confession Rule: Toward a Workable Test for Identifying Compelled Self- Incrimination
Godsey, Mark A.
University of Cincinnati College of Law Scholarship and Publications (2005). Faculty Articles and Other Publications. Paper 92.
http://scholarship.law.uc.edu/fac_pubs/92
Preview

This Article argues that due to legal and historical errors, the Supreme Court has unduly relied on the involuntary confession rule in confession jurisprudence for the past century.

As a result, the Court has ignored other important values and principles that the Court should consider and ultimately infuse into the equation. These values and principles should be used to forge a new test for confession admissibility that either replaces the in- voluntary confession rule outright or, at a minimum, supplements existing doctrine.

Four essential points support this thesis and form the foundation of this Article. First, nothing in the Bill of Rights requires, or even suggests, a voluntariness test as the primary test for confession admissibility. At no point did the Framers impose a voluntariness standard upon us and, like a cruel joke, make the unsolvable puzzle of "free will" the unavoidable sine qua non in courtrooms and interrogation rooms for time immemorial. Indeed, the word "voluntary" and its various permutations do not even appear anywhere in the Bill of Rights. Second, the involuntary confession rule exists today because of a series of mistakes and doctrinal complications, beginning with Bram v. United States, the Supreme Court's first constitutional confession case, and continuing even after Miranda v. Arizona seemingly rendered the rule obsolete. Third, the text of the self- incrimination clause suggests a standard based on compulsion, which focuses on the objective behavior of the interrogators, rather than on voluntariness, which focuses on the suspect's subjective state of mind. Such a test would be more faithful and consistent with existing interpretations of the self-incrimination clause in non-interrogation contexts as well as with the text and historical origins of the self-incrimination clause. Fourth, a test for confession admissibility properly based on compulsion and the self- incrimination clause would differ in many important respects from the in- voluntary confession rule. Although many scholars and even Supreme Court Justices who follow conventional wisdom might disagree, existing interpretations of the self-incrimination clause in non-interrogation con- texts, the historical origins of the self-incrimination clause, the text of the self-incrimination clause, and relevant policy issues all argue to the contrary.

Part I of this Article traces the development of the involuntary confession rule from its birth in the nineteenth century through 1936. Section A discusses how the Supreme Court first introduced the concept of voluntariness into constitutional confession law in 1897 in Bram. This Section argues that the Brain Court seemingly confused a common law, rule of evidence with the self-incrimination clause and, as a result, introduced the voluntariness rubric into constitutional confession law. In critiquing the Brain decision, Section B introduces the concepts and argues that both the text of the self-incrimination clause and its historical origins support the notion that the proper test for admissibility under the self-incrimination clause should be compulsion rather than voluntariness.

Part II discusses confession law from 1936 to 1964, which was the golden era of the involuntary confession rule. During this period, the Supreme Court decided more than thirty confession cases based on volun-
tariness. This Part demonstrates that the voluntariness standard flourished in this period because the due process clauses rather than the self- incrimination clause controlled confession law. This Part further argues that existing interpretations of the self-incrimination clause in the non-interrogation context, such as trials and congressional hearings, as well as textual and historical analyses of the self-incrimination clause suggest that the proper test for compulsion should be objective, focusing primarily on the conduct of the interrogators.

Part III examines the Supreme Court's temporary departure from the involuntary confession rule in Miranda and the decisions that followed. This case returned the focus of confession law back from the due process clauses to its rightful home in the self-incrimination clause. It also seemingly rejected the involuntary confession rule, replacing

it with a new, objective test for compulsion under the self-incrimination clause that is a distant ancestor to the test for compulsion proposed later in this Article. Section B shows that as a result of political maneuvering, however, the incremental gains made by the Miranda Court were soon lost and the voluntariness test was allowed to creep back into confession law. Finally, Section C explains that with the 2000 case of Dickerson v. United States3, 5 in which the Supreme Court upheld the constitutional requirement for Miranda warnings, the political battles that caused the voluntariness stan- dard to be resuscitated post-Miranda may have lost steam. This Section argues that now that these battles are over the controversy over the Miranda warnings have subsided and the smoke has started to clear, the time is ripe for the Court to reassess the turbulent and unfortunate course its confession jurisprudence has taken over the past century.

Part IV then details a new path for the Court to consider. Drawing on the lessons learned in Parts I, II, and III, Part IV delineates a new confession test, called the "objective penalties test," based on the self-incrimination clause, in which the touchstone for admissibility would be compulsion rather than voluntariness. This test would hold inadmissible confessions that had been obtained by imposing an objective penalty in any form on the suspect to punish silence or provoke speech. Part IV develops the objective penalties test in detail through reference to the scholarly literature in the field of philosophy, where a rich standard has been created for determining when a coercive penalty has been imposed. Importing this philosophical literature into the realm of confession law, this Part attempts to create a workable standard for determining the admissibility of confessions. In an effort to demonstrate how this objective penalties test would work in practice, Part IV sets forth numerous hypothetical interrogations and analyzes how these interrogation problems would be solved under the newly proposed test.

The Article concludes by exploring what remaining role, if any, the due process clauses and the involuntary confession rule should play in future constitutional confession jurisprudence.

Confessions and Jury Reactions[3]

Research shows that confessions have a greater impact on jury decisions then do witness statements, or even hard evidence (e.g. Appleby et al., 2013, Kassin & Neumann, 1997). (p.187)

Former U.S. Supreme Court Justice William Brennan once observed that "no other class of evidence is so profoundly prejudicial" as a confession (Colorado v. Connelly, 1986, p. 182): a proposition that has since been supported by an ever growing body of research (see Kassin, 2012; Leo & Davis, 2009; Nirider et al., in press). A confession sets in motion a strong presumption of guilt, and a set of confirmation biases making other evidence seem more incriminating (Kassin et al., 2013), and prompting prosecutors, judges and jurors (and even defense attorneys) to view the suspect as definitively guilty (Leo & Davis, 2009). If innocent suspects recant their confessions, 78-85% nevertheless end up pleading guilty or being convicted at trial (Drizin & Leo, 2004; Leo & Ofshe, 1998). Such rates of wrongful pleas or conviction reflect the inability of all involved to distinguish true from false confessions (Kassin & Fong, 1999; Kassin et al., 2005; Meissner & Kassin, 2002).

In part, these effects of confession on the outcomes of even innocent confessors reflect widespread misconceptions concerning whether, why, and among whom and under what conditions false confessions might occur. Surveys have shown, for example, that as many as one third of survey respondents deny the possibility of false confession, others believe that they result only from torture, and many believe that only the mentally defective will falsely confess.

These and other documented misconceptions compromise the ability to recognize false confessions. (see Vrij et al., 2017; Nirider et al., in press for reviews). Research examining the effects of judicial instructions or expert testimony regarding causes of false confession has revealed disappointing and inconsistent effects, with a minority of studies showing "sensitivity" effects: that is, when appropriate instructions or expert testimony are present conviction rates
vary more appropriately according to the presence of factors in the case and interrogation known to increase risk of false confession (see Nirider et al., in press for review).

The study of the impact of admissions made in pretext calls . . . is in its infancy. However, some evidence suggests that jurors might be more willing to discount admissions made in this context than in the context of police interrogations. Davis and colleagues (Davis, Livingston, et al., 2019; Davis, Rerick, et al., 2019) presented mock jurors with either a recorded pretext call or a long account of a pretext call. The latter included quotes from the caller and suspect and prosecution and defense arguments concerning how the suspect's statements should be interpreted. Two studies varied the type of apology offered by the suspect (none versus three levels of explicitness), and one varied the tactics used by the caller (such as references to involving police, threats to end the marital relationship or access to suspect's children, etc.). In the latter study, the suspect always explicitly apologized for touching his daughter's genitals, but the caller's tactics were varied. Participants in all studies were asked if the suspect said anything to admit guilt, and if so why.

Across all studies, participants rated other motives as important reasons for admissions: such as soothing the victim's or mother's feelings or maintaining relationships. Importantly, some (such as preventing the caller from involving police) were rated as or more important than the suspect's guilt. Moreover, whereas caller tactics did not directly affect ratings of guilt, they did affect perceptions of the pressure exerted on the suspect, which in turn did affect perceptions of guilt. While much more research is needed to explore juror reactions to admissions made in pretext calls, these preliminary findings suggest that admissions in this context may not have as strong and pervasively incriminating effects as those to police interrogators.

[3] Deborah Davis, Richard A. Leo, Tyler Livingston, and Peter Retrick. *Interrogation and the Sexual Assault Suspect: On the Synergy between Pretext Caller and Police Interrogator*. Univ. of San Francisco Law Research Paper No. 2021-07. Last revised: 30 Jun 2021. pp.17-19.

Videotaping Confessions

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.

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.

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.

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.

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.

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

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.

Three things that should be used to guide investigative interviews by military and intelligence agencies.

DeClue, Gregory.

Journal of Psychiatry & Law, Vol 38(1-2), Spr-Sum 2010. Special Issue: Interrogations and confessions. pp. 251-262.

Abstract:

The psychological study of investigative interviewing is over 100 years old (Munsterberg, 1908), with a rich literature and body of knowledge (Drizin and Leo, 2004; Kassin, Drizin, Grisso, Gudjonsson, Leo, & Redlich, 2009). Although behavioral and social science has focused primarily on investigations by police, findings should also be considered by investigators who work for military or intelligence agencies. The state of the science leads to at least three recommendations. First, **all investigative interviews should be video-recorded in their entirety, with an equal focus on interviewers and interviewees**. Second, rather than seeing interrogation as a method to persuade or coerce an uncooperative subject into confessing, investigators should consider interviews of suspects, victims, witnesses, and sources as investigative interviews, with a common goal of finding the truth. Third, because investigators do not really know which interviewees are guilty (have guilty knowledge) and which are not (do not), no law-enforcement, military, or intelligence-agency interrogator should ever use a technique on a 'presumed-guilty' suspect that would not be appropriate for use with an innocent person.

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.

DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCE TRIAL JUDICIARY

UNITED STATES OF AMERICA	DEFENSE MOTION IN LIMINE TO ADMIT DR. SPOCK'S EXPERT TESTIMONY
v.	
CAPT JAMES T KIRK Squadron (AFGSC) Davis Monthan AFB, Arizona	2 October 2021

MOTION

Pursuant to Military Rules of Evidence (M.R.E.) 702, the Defense moves this Honorable Court to permit the defense appointed forensic psychologist to testify about false confession during trial on the merits of *United States v. Kirk*.

SUMMARY

The Government intends to challenge the anticipated testimony of the defense-appointed forensic psychologist, Dr. S'Chn T'Gai Spock, in a *Daubert* hearing. Trial Counsel has represented that they intend to challenge the subject matter to which Dr. Spock intends to testify as well as the qualifications of Dr. Spock in an expert in the psychology of disputed confessions/admissions. If permitted, Dr. Spock will testify to three areas of specialized knowledge/expertise in the defense's case-in-chief: (1) how and why false confessions occur; (2) identification of features in the recorded interrogation from 22 November 2019 which are associated as risk factors frequently identified in false confession/admission cases; and (3) the social-psychological principles at play in false confessions/admissions which explain and demystify the counterintuitive nature of false confessions as well as why people are highly unlikely to accept that false confessions exist. This motion outlines the reasons why Dr. Spock's testimony should be permitted.

FACTS

1. On 25 March 2020, the Convening Authority referred one charge and specification under Article 120b, UCMJ, against Capt Kirk. The Charge and its Specification allege Capt Kirk intentionally touched the genitalia of his daughter, DA, with intent to gratify his sexual desire on divers occasions between on or about 1 July 2018 and on or about 31 November 2019.

2. On 22 November 2019, Special Agent Ida Know interrogated Capt Kirk. The Defense incorporates by reference all paragraphs under "Facts" and "Argument" contained in the Defense's Motion to Suppress Statements, AE VIII. SA Know testified at motions hearing on 20 September 2020 that he used a number of techniques designed to get Capt Kirk to talk to him including: rapport building, minimization of the offense, introduction of themes or theories which are otherwise unsupported with evidence, forced choice dilemmas presented to Capt Kirk, confronting Capt Kirk with "the truth" and proclaiming his knowledge of his guilt, interruption of Capt Kirk's attempts to proclaim innocence, over-emphasis of the amount and quality of evidence in the case against Capt Kirk, suggesting relief or leniency if Capt Kirk confessed, and outlining consequences of his failure to confess.

3. On 8 May 2020, pursuant to Defense's request, 20 AF/JA approved the appointment of Dr. S'Chn T'Gai Spock as an expert consultant in the field of forensic psychology to assist the defense in preparing for trial. Attachment 1. Dr. Spock is an expert in the field of false confessions/admissions. Attachment 2. He holds his Ph.D. in Counseling Psychology from the University of the Outer Limits. *Id*. He has been licensed as a psychologist since 1991, and has been offering clinical and forensic psychological services since 2000. *Id.* He has published and lectured in the field of false confessions and interrogations multiple times. *Id.* He has provided professional consultations pertaining to false admissions/confessions and has conducted many examinations/testified on this topic. Attachment 4.

4. On 16 June 2020, Defense Counsel requested supplemental funding for Dr. Spock to allow him to testify at trial to a variety of topics pertaining to false admissions/confessions pursuant to the theory that Capt Kirk made false admissions at trial. Attachment 3. In a sworn affidavit, Dr. Spock outlined exactly what he would testify to at trial, if the request was granted: the counterintuitive nature of false admissions/confessions and the research supporting the phenomenon; how and why false admissions occur in addition to procedures which interrogators can use to protect against incidents of false admissions; eight types of psychological interrogation techniques used by SA Know which increase the likelihood for a false confession; the social-psychological principles which are unknown to the public and which explain why people are unlikely to accept that false admissions occur. Attachment 4.

5. This request was approved by 20 AF/JA on 29 June 2020 as evidenced by a signed MOA by a representative of the GCMCA. Attachment 5.

6. On 28 June 2020, the day before the approval, trial counsel verbally told defense counsel that it intended to lodge a *Daubert* challenge to the proffered testimony of Dr. Spock.

7. False confession testimony is generally accepted in specialized psychological communities. *S*ee Attachment 6 at 67; *see also generally* Attachment 7. There is a voluminous web of scholarly research surrounding psychology and confessions primarily published in books and peer-reviewed journals. *Id* at 65 and 68, T.1.; Attachment 7. The American Psychology Association has asserted through amicus curia briefs that innocent people can be induced to confess to crimes they did not commit; that juries have difficulty assessing confession evidence, which is counterintuitive; and that research is based on generally accepted methods. Attachment 6 at 67. In a 2018 research study, experts overwhelmingly concluded that various interrogator techniques can lead to a false confession and that juries are unable to adequately place the false confession in proper context as a matter of common sense. *See id.* at 72. In fact, the study reports that only 26% of experts believed that false confessions are known to the average person as a matter of common sense, and that only 28% believed that people can accurately distinguish between true and false confessions. *Id.* Ultimately among those participating in the study, 96% found that juries were better off with a competent expert than without one to assist in explaining confession-related issues.

8. There is a wealth of research that suggests that police interrogation tactics have a potent impact on people, causing innocent people to admit to criminal behavior that they did not commit. Attachment 7 at 14-15. This conclusion is drawn from a number of controlled studies focused on manipulating situational risk factors that increase (or decrease) the rate of false confessions. *Id.* at 16-19. Included in these risk factors are: physical control and isolation, presentations of false evidence, and minimization techniques. *Id.* Studies also reveal that innocence itself is a risk factor for increasing the likelihood of a false confession. *Id.* at 22-23.

9. At the heart of false confession phenomenon are core, well-established principles of psychology. *Id.* at 15. This includes: responsiveness of people to enforcement and subject to the laws of conditioning; the influence of behavior by perceptions of short-term gain versus long-term consequences. *Id.* A voluminous body of research also reveals that people make choices that they think will maximize their well-being given the constraints they face, making the best of the situation they are in – what psychologists refer to as "matching law." *Id.* Studies also show that individuals tend to be impulsive in their orientation in an interrogation, preferring outcomes that are immediate rather than delayed, with delayed outcomes depreciating over time in their subjective value. *Id.* Research also shows that people are highly vulnerable to influence from change agents who seek their compliance. *Id.* Finally, cognitive and neuroscience research shows that individuals are at risk of memory transience, misattribution effects, and suggestibility in interrogations. *Id.* Particularly in cases where a suspect is dispositionally or situationally rendered vulnerable to manipulation and the interrogator misrepresents the evidence, suspects confabulated memories about nonevents. *Id.* at 16.

10. If permitted, Dr. Spock will testify to the following issues, all of which are outlined in Attachment 4:

a. How and why false confessions occur.

(1) This will include reference to numerous, well-researched studies by experts in the field and a body of data that spans decades. Included in this body of research includes specific instances where innocent people were coerced into making false confessions.

(2) This will also include testimony about common interrogation tactics used by law enforcement which studies have shown increase the likelihood of false confessions/admissions.

b. Identification of features in the recorded interrogation from 22 November 2019 which are associated as risk factors frequently identified in false confession/admission cases.

(1) This will include the identification and analysis of specific techniques utilized by Agent Know, which Agent Know admitted to using at his own admission at the motions hearing on 17 May 2020: suspect ingratiation, refusal to accept suspect denials, minimization of the alleged offense, appeals to confess in order to assist AW, deceptive embellishment of incriminating evidence, forced-choice dilemmas presented, implications of leniency or assistance, maximization and implied threats, detection of deception, and use of criminal "profiling" in interrogations for the identification of perpetrators.

(2) Dr. Spock will explain why these techniques, also known as situational factors, can increase the risk of false confessions based on fundamental psychological principles. This will also include how law enforcement are trained to conduct interrogations in specific methods that are well known to place suspects at risk for a coerced confessions.

(3) This will also include the psychological phenomenon that takes effect on some individuals when faced with such techniques.

c. The social-psychological principles at play in false confessions/admissions which explain and demystify the counterintuitive nature of false confessions as well as why people are highly unlikely to accept that false confessions exist.

11. There is no direct evidence in support of the charge and specification in this case other than the admission by Capt Kirk.

BURDEN OF PROOF AND PERSUASION

12. Pursuant to RCM 905(c)(2)(A), the defense as the proponent of the admission of this evidence has the burden of persuasion. Pursuant to RCM 905(c)(1), the standard of proof on any factual issue necessary to decide this motion is by a preponderance of the evidence

LAW

13. MRE 702 states "[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(c) the testimony is based on sufficient facts or data;

(e) the testimony is the product of reliable principles and methods; and

(d) the expert has reliably applied the principles and methods to the facts of the case."

14. Under *United States v. Houser*, to have an expert testify, defense must show:

(1) qualifications of the expert, MIL 702

(2) the subject matter of the expert testimony, MIL 702

(3) the basis for the expert testimony, MIL 702

(4) the legal relevance of the evidence, MIL 401 and 402

(5) the reliability of the evidence MIL 401

(6) whether the probative value of the testimony outweighs other considerations, MIL 403. *United States v. Bell,* 72 MJ 543, 551 (Army Ct. Crim App. 2013)(citing *United States v. Houser*, 36 MJ 392, 397 (CMA 1993).

15. In *Houser*, the Court of Military Appeals determined that the military judge did not abuse his discretion in permitting the testimony of counterintuitive victim behavior. *Houser*, 36 MJ at 400. In coming to this conclusion, the court made the following findings:

a. Regarding Subject Matter Expert Testimony:

(1) "The test is not whether the jury could reach the same conclusion in the absence of the expert evidence, but whether the jury is qualified without such testimony to determine intelligently and to the best possible degree the particular issue without

enlightened from those having a specialized understanding of the subject." *Id*. at 398. (internal citations omitted).

(2) Expert testimony about counterintuitive behavior of a victim following a sexual assault "assists jurors in disabusing themselves of widely held misconceptions" and that "rape-trauma-syndrome testimony by a properly qualified expert may be admissible to assist the trier of fact to understand the evidence." *Id.* at 399.

b. Regarding Basis of Expert Testimony. "[A]n expert's opinion may be based on personal knowledge, assumed facts, documents supplied by other experts, or even listening to the testimony at trial." *Id.* at 399. Therefore, the CMA concluded, "there was no requirement that [the expert] interview the victim before she could testify to her six-stage model and the symptoms of typical rape survivors." *Id.*

c. Regarding Relevance. The CMA found that the testimony of the expert in the case was relevant because "certain behavioral patterns such as failure to resist or delay in reporting a rape could be confusing to the fact-finders because these may be counter-intuitive." *Id.* The CMA further found that "[i]t is logically relevant for an expert to explain that certain behavior patterns occur in a certain percentage of rape cases or child abuse cases. This is not to say that the offense occurred but, rather, that these events may happen to some victims. Without the testimony the members are left with their own intuition." *Id.*

d. Regarding Reliability. The CMA stated

> The probative value of the evidence under this test depends on its reliability. Since most judges do not have the appropriate scientific background, it is up to the proponent to establish the probative value and the reliability of the evidence by testimony or scientific and legal writings.
> *Id.*

e. Regarding Probative Value. The *Houser* court resolved the 403 balancing test by weighing the expert's testimony in the context of the entire case. *Id.* at 400. The defense in the case raised a number of issues concerning the behavior of the victim, and the expert's testimony helped put the behavior evidence in perspective—it was needed to explain to the members the behavioral patterns of the victim which were highlighted by the defense. *Id.* The expert also gave a framework within which the members could consider the arguments made by the opposing party, and not to issue opinions on the ultimate issue. *Id.* Finally, the opposing party conducted extensive cross examination of the expert to place her testimony in perspective. *Id.* Based on these reasons, the *Houser* court found that the testimony survived MRE 403. *Id.*; *see also United States v. Dougherty*, 2013 CCA LEXIS 1072 (N-M Ct. Crim. App. 2013) (finding that the probative value of a false confession expert's testimony outweighed any danger of unfair prejudice, confusion of issues or danger of misleading the members due to the centrality of the confession to the Government's case).

16. In *Daubert v. Merrell Dow Pharms.*, which came out two months after *Houser*,1 the Supreme Court of the United States outlined six factors to be considered by the judge in determining whether scientific evidence meets the requirements for reliability and relevance:

1 Despite the fact that *Houser* was published prior to *Daubert*, the Court of Appeals for the Armed Forces held that the two decisions are consistent, with *Daubert* providing more detailed guidance

on the fourth and fifth *Houser* prongs pertaining to relevance and reliability. *Griffin*, 50 M.J. 278, 284 (CAAF 1999).

> a. Whether the theory or technique can be and has been tested
>
> b. Whether the theory or technique has been subjected to peer review and publication
>
> c. The known or potential error rate
>
> d. The existence of maintenance of standards controlling the techniques operation
>
> e. The degree of acceptance within the relevant scientific community, and
>
> f. Whether the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.

509 U.S. 579, 593-95 (1993).

17. In *Crane v. Kentucky*, the Supreme Court of the United States weighed in on the issue of the counterintuitive nature of false confessions. 476 U.S. 683, 689 (1986). The *Crane* Court stated:

> Confessions, even those that have been found to be voluntary, are not conclusive of guilt…[S]tripped of the power to describe to the jury the circumstances that prompted his confession, the defendant is effectively disabled from answering the one question every rational juror needs answered: If the defendant is innocent, why did he previously admit his guilt?

[1] Despite the fact that *Houser* was published prior to *Daubert*, the Court of Appeals for the Armed Forces held that the two decisions are consistent, with *Daubert* providing more detailed guidance on the fourth and fifth *Houser* prongs pertaining to relevance and reliability. *Griffin*, 50 M.J. 278, 284 (CAAF 1999).

Id.; *see also United States v. Shay*, 57 F.3d 126, 133 (1st Cir. 1995)("Common understanding conforms to the notion that a person ordinarily does not make untruthful inculpatory statements."). The Court also acknowledged that "the physical and psychological environment that yielded the confession can also be of substantial relevance to the ultimate factual issue of the defendant's guilt or innocence." *Id.* The Court ultimately concluded that an accused has a constitutional right to challenge the credibility of a confession admitted into evidence against him "when such evidence is central to the defendant's claim of innocence." *See id.* at 690.

18. In *United States v. Bell*, a persuasive sister-service case, the Army Court of Criminal Appeals found that the military judge placed undue influence on error rates in denying the defense an expert to testify to facets of false confessions. 72 MJ 543, 551 (Army Ct. Crim. App. 2013).

> a. Specifically, the defense expert would have testified to, among other issues, the
>
> situational factors may involve the specific interrogative approach or approaches that were used [in the interrogation]. They also may include the length of the interrogation or the time of day, and how those factors affect decision making. [The expert would have] also discussed maximization and minimization techniques and how those interrogation methods might increase the chance of a false confession. Maximization techniques involve a variety

of approaches that seek to increase one's perception of the strength of the evidence. In contrast, a minimization technique is designed to put the subject at ease and gain their trust by downplaying a suspect's perception of the consequences associated with a particular act or by minimizing the suspect's responsibility in the situation. [The expert would have] testified that the use of these techniques in general increases the likelihood of false confessions, and the minimizing techniques in particular doubles the likelihood of a false confession.

Id. at 553.

b. The *Bell* court ultimately found that the military judge did not abuse his discretion despite the error of placing undue influence on error rates because there were very few situational factors in the case that lended support to the defense's claims that the interrogation was so coercive as to create a climate where a false confession would be likely. *Id.* at 554. This included an absence of any pressure by the interrogator, a lack of use of techniques by the interrogator, a lack of exaggeration of the government's case, and a lack of minimization of appellant's culpability. *Id.* at 555.

c. Finally, the *Bell* court noted that "military practice does not prohibit the use of a false confession expert in courts-martial. Indeed, we can envision many different scenarios where expert testimony regarding false confessions would be helpful to the fact finder." *Id; see also United States v. McGinnis*, 2010 CCA LEXIS 96, *25 (Army Ct. Crim. App. 2010)("In addition, neither this court, nor our superior court has found this type of testimony to be per se inadmissible.")(internal citations omitted).

19. In *United States v. McGinnis*, another persuasive, unpublished sister-service case, the Army Court of Criminal Appeals found that the military judge abused his discretion in denying the defense request for expert assistance in the area of coercive law enforcement techniques which may lead to a false confession. 2010 CCA LEXIS 96 (Army Ct. Crim. App. 2010).

a. In *McGinnis*, the defense proffered that the testimony of its expert would "describe psychiatric conditions that tend to make a declarant in general more impressionable or susceptible to suggestibility by an interrogator." *Id.* at *21. The expert would have sought to "educate the panel on how interrogation techniques are designed to break down the will of a suspect" and how certain features of an accused can suggest particular suggestibility to coercive interrogation techniques." *Id.* at *21-22. The defense was clear that it would not elicit testimony from the expert to the ultimate opinion as to whether the appellant's confession was, in fact, false. *Id.* at *22.

b. While the *McGinnis* court acknowledges that "some courts have found this type of testimony to be inadmissible," it cited to other courts that have permitted this type of testimony as admissible:

Callis v. State, 684 N.E.2d 233, 239 (Ind. App. 1997) (affirming trial court's decision to admit, on limited grounds, expert witness testimony regarding police interrogation tactics); *State v. Baldwin, 125 N.C. App. 530, 482 S.E.2d 1, 5 (N.C. App. 1997)* (holding that the trial court erred in excluding expert witness testimony that police interrogation tactics made defendant susceptible to giving a false confession).

c. Ultimately, the *McGinnis* court found that "[t]estimony concerning coercive interrogation techniques and how those personality traits that make one particularly susceptible to those techniques could assist the members in understanding the similarly

counterintuitive behavior of admitting to criminal acts that one did not commit." *Id.* at *26-27. It further found that "[e]xpert testimony could assist the members in understanding *why* [false confessions] occur without running afoul of the 'human lie detector' testimony." *Id.* at *27.

20. In the persuasive federal circuit court case of *United States v. Hall*, the defense wanted to call an expert to testify about "the fact that experts in his field agree that false confessions exist, that individuals can be coerced into giving false confessions, and that certain indicia can be identified to show when they are likely to occur." 93 F.3d 1337, 1341 (7th Cir. 1996). The trial court ruled, however, that "the jury could appreciate whether police interrogation techniques were suggestive by themselves and that [the expert's] testimony would invade the prerogative of the jury to assess [investigators'] credibility." *Id.* The Seventh Circuit ultimately found that "[i]f the expert testimony would be helpful and relevant with respect to an issue in the case, the trial court is not compelled to exclude the expert just because the testimony may, to a greater or lesser degree, cover matters that are within the average juror's comprehension." *Id.* at 1342. It further found that "[t]he expert, in short, would have given [the jury] a reason to reject the common sense evaluation of the facts that they would otherwise be entitled to use." *Id.* at 1344. Finally, the *Hall* court recognized that:

> Even though the jury may have had beliefs about the subject, the question is whether those beliefs were correct. Properly conducted social science research shows that common held beliefs are in error. [The expert's] testimony, assuming its scientific validity, would have let the jury know that phenomenon known as false confessions exists, how to recognize it, and how to decide whether it fits the facts of the case being tried.

Id. at 1342. The court recognized this as valid social science that could have helped the jury make its decision as to whether to believe the confession was true or false. *Id.* at 1345. As a result, by omitting the evidence, the jury "may have been deprived of critical information it should have had in evaluating [the defendant's] case." *Id.*

21. In *United States v. Griffin*, CAAF found that a military judge did not abuse his discretion when he denied the admission of defense expert testimony about false confessions. 50 M.J. 278, 278 (CAAF 1999).

c. In *Griffin*, the accused confessed to sexual misconduct with his daughter to an interrogator. *Id.* At 281. The interrogation was not recorded. *See id.* At 280-81. The special agent who conducted the interrogation testified that the appellant never got upset during the interrogation, that he made no threats or promises, and was otherwise open to hearing the story from the appellant. *Id.* At 280. The appellant testified that the interrogator used a number of tactics to pressure him to make a confession, including threats, minimization techniques, continuing with the interrogation after a request for a lawyer, and dictating the written confession. *Id.*

b. The expert in *Griffin* proffered testimony that focused on components that affect vulnerability in an interrogation. *Id*. At 281. He would have testified to the fact that the appellant made a coerced compliant false confession. *Id.* At 282. Dr. Frank also ran a battery of psychological tests on the accused and was prepared to testify to those results. *Id.* At 281-282. The Government called Dr. Nancy Slicner to testify that the research in the area of false confessions (as of the time of this case in 1999) was limited by an inability to control the variables of false confession studies, and to develop a research protocol to conduct a "controlled study." *Id.*

c. The military judge determined that the interrogator's version of what happened in the interrogation was more credible than what the appellant had offered. *Id.* He also found the accused's version lack credibility. *Id.* Finally, the judge found that the testimony failed the MRE 403 balancing test. *Id.* At 283.

ARGUMENT

Dr. Spock's specialized knowledge in the field of false confessions will help the trier of fact to understand that a counterintuitive phenomenon known as false confessions exists, how to recognize it, factors that can increase the likelihood of a false confession, and whether those factors fit the facts of the case being tried.

22. The first prong under MRE 702 encapsulates *Houser* factors 1 and 2. All have been met by the defense.

23. Dr. Spock has specialized knowledge in the field of false confessions. He holds a Ph.D. in the broader field of psychology. He's been licensed for over 30 years as a psychologist, has researched, published, taught and lectured on topics involving interrogation techniques and false confessions/admissions for over 30 years of practice. He was the keynote an instructor for the State Bar of Arizona for over 10 years and lectured on false confession psychology. Of the 200+ times Dr. Spock has testified as an expert, 20 times have been about false confession psychology. He has consulted as an expert in false confession psychology for prosecution and defense dozens of times.

24. Similar to the specialized knowledge of the Government expert in *Houser*, Dr. Spock holds specialized knowledge of the counterintuitive behavior of false confessions which are spurred at the hands of situational factors, namely interrogation techniques, which are employed by some interrogators. Based on his study of peer-reviewed research spanning decades, Dr. Spock is both aware of the interrogation techniques that increase the likelihood of a false confession, and identified several at issue in the interrogation of Capt Kirk. He is prepared to testify to the psychological phenomenon and counterintuitive behavior of falsely admitting to crimes not committed, generally, that some people engage in when facing such interrogation techniques. He will not opine on the ultimate issue: whether Capt Kirk gave a false confession.

25. Dr. Spock will share his specialized knowledge with the members of the panel because, as the *Shay* court stated, "common understanding conforms to the notion that a person ordinarily does not make untruthful inculpatory statements." Similar to the rationale acknowledged in *McGinnis*, Dr. Spock's testimony is designed to assist the members in understanding why false confessions occur without actually opinion on whether Capt Kirk actually falsely confessed. Although some of the testimony Dr. Spock proffers may be within the average juror's comprehension, just as the expert's testimony in *Hall*, this should not result in the exclusion of the testimony.

Dr. Spock's testimony is based on generally accepted, well-researched, and peer-reviewed facts and data as well as the transcribed interrogation of Capt Kirk from 22 November 2019.

26. The second prong of MRE 702 encapsulates *Houser* factor 3 and *Daubert* factor 5. All have been met by defense.

27. The Basis of Dr. Spock's Testimony, in part, is the Body of Science Studying False Confession Psychology which is Generally Accepted in the Field of Psychology. Attachments 6 and 7 to this motion outline just how thoroughly researched the area of false confessions is. Specifically, Attachment 6 details empirical research which ultimately concludes that the vast majority of experts agree that deception detection, police interrogations, and confessions have been sufficiently researched and analyzed in peer-reviewed publications to lend to reliable testimony in court. Attachment 7 details specific studies led by world-renown psychologists in the field of false confessions which analyze cases of proven false confessions, the rates of false confessions in controlled studies, convictions based on false confessions, and which police interrogation techniques are most likely to cause false confessions. Dr. Spock also plans to rely on the body of research which discusses the counterintuitive nature of making inculpatory statements and why juries need assistance understanding this phenomenon to make sense of the evidence and put it in its proper context.

28. Dr. Spock will also rely on sufficient facts and data of this particular case. The 22 November 2019 interrogation of Capt Kirk by SA Know was reduced to a verbatim transcript. Dr. Spock relied on the transcript to identify the situational factors that are more likely to cause a false confession.

Dr. Spock's testimony is the product of reliable principles and methods.

29. The third prong of MRE 702 encapsulates *Houser* factor 5 and *Daubert* factors 1-4. All have been met by defense.

30. Dr. Spock will testify to the principles underlying identification of interrogation techniques, or situational factors, which are more likely to cause a false confession. This includes understanding the specific type of techniques used by interrogators and identifying those techniques that research shows are more likely to cause a false confession. Dr. Spock is well steeped in this body of research and is prepared to testify to it.

31. The evidence is highly reliable. First, the interrogation from 22 November 2019 was recorded, and there is no dispute from either party that the video or the transcript is inaccurate or misleading. Second, the body of research upon which Dr. Spock draws on to complete his scientific method is highly reliable based on an analysis of *Daubert* factors 1-4:

a. *(1) Whether the theory or technique can be tested.* Dr. Spock will testify that experimental research in psychology is structured to be falsifiable and is derived from the scientific method. Experimental research related to false confessions utilizes a "null hypothesis." A null hypothesis proposes that the researcher's hypothesis is, in fact, false. For example, if the researcher believed that using minimization tactics increases the rate of false confessions, the null hypothesis would be that minimization tactics do not increase the rate of false confessions in a sample. No "real world" experiments can be conducted where an individual is placed in a criminal situation to make a false confession because it would be highly unethical to do so. This does not preclude designing experiments which address the specific factors related to false confessions, such as waiver of *Miranda* rights, interrogation techniques, accuracy of deception by investigators, providing a false confession in a mock crime, etc. In fact, SA Know testified in motions practice on 17 September 2020 that part of his training included study of experiments of this sort. The falsifiability of research on false confessions is akin to the falsifiability of other well accepted psychological principles that have been involved in criminal cases and have been deemed worthy for testimony under the *Daubert* standards, such as eyewitness testimony,

the accuracy of memory, counterintuitive victim behavior (like the testimony at issue in *Houser*), etc.

b. *Whether the theory or technique has been subjected to peer review and publication.* There is a plethora of articles and citations on variables related to false confessions from peer reviewed journals, including topics such as, but not limited to: waiver of *Miranda*; police interrogation techniques; the ability of law enforcement to detect deception; inducing false confessions; implanting and inducing false memories; the effects of confession evidence on juries; factors related to juvenile suspects, etc. The reference list at Attachment 7 and Attachment 8 cite to hundreds of titles, including an extensive number of articles in peer-reviewed journals. Reputable peer-reviewed journals that house articles on false confession psychology include: Law and Human Behavior, the journal of the American Psychology-Law Society (Division 41 of the American Psychological Association); The Journal of Experimental Psychology: Applied; Psychological Bulletin; Psychological Science; Journal of Applied Psychology; Behavioral Sciences and the Law; Journal of Forensic Psychiatry & Psychology.

(1) More importantly, comprehensive articles on the subject have been written in American Psychologist, which is the official journal of the American Psychological Association. The articles in this journal typically address the science and practice of psychology and the implications for national and international policy issues. The journal typically publishes articles with meta-analytic reviews or key data points of major psychological science issues, rather than single study empirical research. In other words, it publishes on subjects for which there is ample empirical studies. Approximately 70% of submitted manuscripts are returned without review within 30 days because this journal only publishes articles relevant to the entire field of psychology. Subjects without wide acceptance and grounded in scientifically sound research would not be published in such a journal.

(2) Moreover, articles have been published in Psychological Science in the Public Interest, which is the journal for the Association for Psychological Science, a professional group much smaller than the American Psychological Association and largely composed of experimental researchers.

c. *The known or potential error rate and the standards controlling the techniques operation.* It is important to be clear about which "error rates" are at issue, the research on factors related to false confessions vs. a particular confession being false. Dr. Spock would be testifying on the research regarding factors facilitating false confessions, and if those factors were present in Capt Kirk's case. In the scientific method, a hypothesis is not "proven." This is because there could always be other phenomenon of which one is not aware of that actually causes the effect of the hypothesis. In the scientific method, a researcher sets up a "null hypothesis," which is actually the opposite of what the researcher believes to be the case. For example, a null hypothesis would be whether a certain interrogation technique will not result in an increased number of confessions among participants. The researcher would then subject the data to a probability test. If the predicted results were unlikely to have occurred by random chance, then the researcher rejects the null hypothesis; and this supports his/her proposition. In summary, there *are* known error rate for the conclusions of the research conducted related to false confessions. Error rates, called the "alpha level," are used for tests of statistical significance in determining whether or not a hypothesis is supported or rejected. Typically the alpha level is set at .05 or .01. This means that if the results occurred by chance, and not the researcher's hypothesized variables, it would rarely occur--5% or l% of the time.

d. Although *Griffin* stands in opposition to the defense's position, Dr. Spock will testify that since the publication of this case (1999), the specific issues that Dr. Slicner testified to in that case, which CAAF relied on in finding no abuse of discretion, are outdated. The science behind false confession psychology has evolved tremendously over the past 21 years. Further, although known error rates are impossible to pinpoint, *Bell* persuasively stands for the proposition that to place too much emphasis on known error rates is error. Further, unlike *Bell*, there are a number of situational factors actually present in this case which were not present in *Bell.*

Dr. Spock has reliably applied the principles and methods to the facts of the case.

32. Dr. Spock has reliably applied the principles and methods to the facts of this case. Understanding those interrogation techniques that are likely to cause an innocent person to falsely admit to guilt, Dr. Spock looked for those interrogation techniques in the recorded interrogation of Capt Kirk. He identified that the agent used several techniques that can increase the likelihood of a false confession.

The probative value of Dr. Spock's testimony outweighs all other considerations.

33. Under *Houser* factor 6 and *Daubert* factor 6, the probative value of Dr. Spock's testimony is not substantially outweighed by the danger of prejudice, confusion of the issues, or misleading of the jury.

34. Several cases, some binding and some persuasive on this Court, have already reached the conclusion that the probative value of false confession psychology testimony is not substantially outweighed by other concerns.

a. First, *Houser* stands for the proposition that the expert's testimony on counterintuitive behavior in the field of psychology is highly probative because it helps place certain facts in the context of the entire case for the benefit of the members. This was especially important, according to CAAF, after the opposing counsel in the case raised a number of issues concerning the behavior of the victim; the expert testimony was needed to explain to the members the behavioral patterns of the victim which were highlighted by the defense. The same is true here. The Government has made clear that the central focus of its case is the admission of Capt Kirk. It has very little other evidence, as made clear by its witness list and the motion testimony of Ms. Wilson on 17 September 2020. Just as in *Houser*, Dr. Spock is only going to provide a framework within which the members could consider the arguments made by the opposing party, and not to issue opinions on the ultimate issue. Finally, in this case, as in *Houser*, the opposing party may conduct extensive cross examination with the aid of their own expert, Dr. Nelson, to place his testimony in perspective.

b. Second, *Crane* stands for the proposition that without the ability to challenge the circumstances that prompted his confession, Capt Kirk is effectively disabled from answering the one question every rational member needs answered: If the Capt Kirk is innocent, why did he previously admit his guilt? The Supreme Court also explicitly acknowledged that "the physical and psychological environment that yielded the confession can also be of substantial relevance to the ultimate factual issue of the defendant's guilt or innocence." Here, Dr. Spock plans to testify to the situational factors, physical and psychological, that were identified in this case that are consistent with factors

that can lead to a false confession. Finally, the *Crane* Court unequivocally supports the argument that Capt Kirk has a constitutional right to challenge the credibility of his admission because "such evidence is central" to Capt Kirk's claim of innocence.

c. Third, persuasively, *McGinnis* and *Dougherty* are factually similar to this case. Just as the *McGinnis* court found that "[t]estimony concerning coercive interrogation techniques and how those personality traits that make one particularly susceptible to those techniques could assist the members in understanding the similarly counterintuitive behavior of admitting to criminal acts that one did not commit," the same is true in this case with Capt Kirk. Dr. Spock's testimony would "assist the members in understanding why [false confessions] occur without running afoul of the 'human lie detector' testimony." Just as the *Dougherty* court found that the probative value of a false confession expert's testimony outweighed any danger of unfair prejudice, confusion of issues or danger of misleading the members due to the centrality of the confession to the Government's case, the same holds true here.

d. Even putting aside precedent and persuasive authority, on this case's own merit, there is no rational argument that the danger of prejudice substantially outweighs the probative value of Dr. Spock's testimony. The Government is not prejudiced by having Dr. Spock testify. They have retained their own expert to help cross examine Dr. Spock. They are free to question him on areas of the science or application of the science they deem lacking. The prejudice to the Accused, on the other hand, is substantial if this is kept out. Capt Kirk's case comes down to whether he can properly contextualize the admission he made on 22 November 2020. Without being able to do that, he is deprived of his constitutional right to mount a defense as *Crane* explains.

e. Similarly, there can be no rational argument that Dr. Spock's testimony would be more confusing than probative. *Not* allowing the testimony would leave the members being confused as to why a person would make an admission but later deny the contact. The testimony by Dr. Spock is aimed to reconcile this clear counterintuitive behavior. Moreover, there is no danger that Dr. Spock's testimony would mislead the jury. Dr. Spock will simply provide a framework through which the members may analyze the facts of the case. The opposing party expert and cross-examination are additional assurances that any hint of misleading information will be cured. Finally, this testimony is not a waste of time or cumulative, as there is no other information offered in the case that can explain the counterintuitive phenomenon of false confession psychology.

RELIEF

THEREFORE, the defense respectfully requests this Honorable Court to admit Dr. Spock's expert testimony. At this time the defense anticipates examining the following witnesses pursuant this motion: Dr. Spock.

Respectfully submitted on 2 October 2020,
IMA PEACH, Maj, USAF
Defense Counsel

Attachments:
1. Memo from 20 AF/JA approving Dr. Spock as an expert consultant, dated 8 Sep 20, 2 pgs
2. Dr. Shawn Spock's Curriculum Vitae, undated, 11 pgs
3. Defense Request for Supplemental Funding for Dr. Spock, dated 16 Sep 20, 4 pgs

4. Affidavit by Dr. Spock, dated 16 Sep 20, 3 pgs
5. Memorandum of Agreement for Dr. Spock's supplemental funding, dated 29 Sep 20, 2 pgs
6. Article: "On the General Acceptance of Confessions Research: Opinions of the Scientific Community" by Kassin and Redlich, dated 2018, 18 pgs
7. Article: "Police-Induced Confessions: Risk Factors and Recommendations" by Kassin, et. al., dated 15 Jul 09, 36 pgs
8. Reference list for publications discussing false confession psychology, undated, 6 pgs

CERTIFICATE OF SERVICE

I hereby certify that I served the above motion on the military judge and trial counsel via e-mail and e-filing on 2 October 2020.
IMA PEACH, Maj, USAF
Defense Counsel

Example of Crossing the Investigator (Agent Sam Smith)

BACKGROUND

- Federal Agent for 12 years
- Received training from the Federal Law Enforcement Training Course (FLETC)
- Extensive experience in criminal investigations
- For the last three years you work exclusively in investigating sex crimes
- Have interrogated hundreds of subjects suspected of committing an offense
- Hundreds and hundreds of on on-the-job training hours

TECHNIQUES

- Throughout your training and experience, you learned about effective interrogation techniques
- These techniques offer a variety of psychological tactics that assist you in an interrogation
- Because your goal in an interrogation is to get the subject to talk to you
- And these techniques help accomplish that
- What I'd like to do is ask you about several different techniques and whether you applied them in your interrogation of SSgt Jones

- One technique is called rapport building
  - This is a tactic that you use at the very start of interrogations
  - Before you read the subject his or her rights
  - The purpose of rapport building is to find commonality with the subject and lower the tension in the room
  - When you are rapport building, you want the subject to be relaxed
  - At ease
  - Guard down
  - In your interrogation of SSgt Jones, you used rapport building
  - Specifically, you used it on SSgt Jones before you read him his rights

- Another technique that you use for interrogations is confrontation
  - When you use the confrontation technique, you confront the subject of the investigations with the allegation
  - You present the allegation as though it is the truth
  - You infer in your questioning that you know the allegation is true and that the subject committed the offense
  - Psychologically, this technique is designed to increase pressure on the subject
  - You used this technique on SSgt Jones in your interrogation of him
  - You used this technique only after SSgt Jones waived his right to remain silent

- Another technique that you use for interrogations is Maximization
  - When you apply this technique, you tell the subject how serious the crime is that he committed
  - You also tell the subject how important decision makers, like his commander, will be reviewing the evidence in this case
  - You infer that it is crucial for the subject to tell his story needs to counter the allegations lodged against him
  - Psychologically, this technique is designed to increase pressure on the subject

- Another technique you use is to suggest that the subject will face consequences if he doesn't admit the essential facts of the allegation.
  - Psychologically, this technique is designed to increase pressure on the subject

- You used that technique on SSgt Jones in your interrogation with him only after he waived his right to remain silent.

INTERROGATION WITH THE ACCUSED

- You used these interrogation techniques over the course of several hours with SSgt Jones
- To be fair, there are stretches of time where you leave SSgt Jones alone in the room
- It took place in a small interrogation room here at Great AFB
- Where there are no windows
- No pictures on the wall
- Just three chairs and a desk

ALLEGED VICTIM INTERVIEWS (BIAS – 608©)

- You also interview alleged victims of crimes
- You've conducted hundreds of interviews of alleged victims
- You have never use any of the techniques you just testified to in any victim interview
- You do not want to increase pressure on alleged victims
- Your interview style is completely different from how you approach someone accused of a crime

- In this case, you interviewed A1C Mary Marigold
  - You did not use confrontation techniques on her to determine if she was being truthful in her accusation
  - You did not use the maximization technique on her regarding the seriousness of the accusation
  - You did not use the technique of suggesting consequences for not telling the truth
  - You didn't used minimization techniques regarding her allegations.

- You didn't use the room you interrogated the accused in this case.
  - In fact you interviewed A1C Marigold in the "soft room".
  - It has a comfortable couch.
  - Pictures on the wall.
  - She had her SARC support in the room with her?
  - So she wasn't feeling pressured

DIVERSITY TRAINING

- In the hundreds of hours of training you received, you never received training regarding how to approach men of color.
- This includes young African American men accused of a crime.
- You are aware of the studies that show that young African American men are disproportionately punished in the Air Force than any other demographic? (EFFECT ON THE LISTENER...IF HE BELIEVES THIS IS TRUE, THEN WHAT STEPS DID HE TAKE TO STEM THIS ISSUE IN HIS LINE OF WORK)
- Despite this, you approach this subject interview of an African American man in his twenties with an intent to put pressure on him

FOLLOW UP

- Following the interrogation, SSgt Jones brought back documents for you to look at pertaining to this case
- Items pulled from his phone, corroborating some of what he told you in the interview
- He didn't have to do that
- But he did

Expert Testimony on False Confessions

Jurors' reactions to recanted confessions: Do the defendant's personal and dispositional characteristics play a role?

Henkel, Linda A.

Psychology, Crime & Law, Vol 14(6), Dec, 2008. Pp. 565-578.

Abstract:

Confession evidence presented at trial is extremely damaging to the defense. This study examines the impact of a recanted confession on jurors' perceptions of a murder case in which the defendant claimed to have falsely confessed due either to an underlying medical condition, a psychological disorder, or the general stress of the interrogation. Also included were an inadmissible confession condition and a no-confession control condition. Results showed that the impact of the confession was mediated in part by the circumstances surrounding it. Although probability-of-commission estimates were as high in all of the conditions involving a confession, conviction rates were marginally higher when the disputed confession involved mental illness or interrogation-induced stress than when there was no confession, yet did not differ when the disputed confession involved a medical disorder or there was no confession. These findings show that not all recanted confessions are treated equally and that people selectively discount confessions depending on biases and beliefs they hold.

False Confessions, Expert Testimony, and Admissibility

Clarence Watson, Kenneth J. Weiss and Claire Pouncey

Journal of the American Academy of Psychiatry and Law. (June 2010) Vol. 38, no. 2, 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.

Custodial confessions, in the absence of physical evidence, can be the key to a criminal prosecution. Many criminal suspects, for a variety of reasons, give false or unreliable confessions and challenge their admissibility later at trial.[1] Courts have been receptive to such challenges on two bases: the voluntariness of the waiver of rights and the reliability of the content of an alleged false confession. In each instance, the suspect's mental state is placed at issue before the court. Courts are aware of the phenomenon of false confessions and may look to expert witnesses to shed light on a defendant's claim. In this article, we examine the phenomenon of false confessions, explore epistemological and practical concerns regarding the admissibility of expert testimony, and recommend ways to structure and present such testimony.

Here is the body of Watson's article:

The Phenomenon of False Confessions

By now, there is little doubt that innocent criminal suspects give incriminating statements. The social science literature suggests that the interrogator-suspect interaction, coupled with the suspect's psychological makeup, explains how an individual can act against his best interest.[2–5] These considerations are not novel. Indeed, various dynamics surrounding the quality of confessions have been considered as early as the mid-19th century.[6] For example, Wharton[7] outlined the following points to bear in mind when considering the validity of a confession: Before, however, a confession should be taken as real, it should be subjected to certain psychological tests. Delusion; a morbid desire to attract attention; a sort of epidemic which sometimes strikes down whole classes with a passionate impulse to insist upon some blood-stain on the conscience, something like the hypochondriac epidemic impulse which insists upon some personal abnormity [footnote omitted]; weariness of life; a propensity to self-destruction through a channel which from its very tortuousness possesses its own fascination; a Lara-like [Count Lara of Lord Byron's 1814 poem] desire to appear mysterious and dark…the existence of such elements as these should be inquired into before a confession is received as absolute [Ref. 7, p 16].

The notion of false confessions, however, may be counterintuitive to the average person, the potential juror. What else but guilt would cause any person to confess? This is the quandary in which criminal defendants find themselves when claiming to have falsely incriminated themselves. Nevertheless, it has been reported that numerous convicts who were subsequently exonerated from their alleged crimes initially provided confessions that supported their wrongful convictions.[8]

For defendants seeking to challenge the validity of their own words at trial, expert testimony may be essential in casting doubt on the customary view of confessions in the eyes of the jury. This task assumes additional complexity when a defendant has provided a false confession voluntarily in the absence of police misconduct. As Alschuler[9] points out, there are no constitutional provisions for excluding legally obtained confessions, and accordingly, the jury must be allowed to weigh such confessions as it does other forms of evidence. Defendants therefore need the assistance of expert testimony to subvert the potent inference of guilt that confessions generate.

In some jurisdictions, defendants may proffer expert testimony to educate the judge or jury as to how a psychiatric condition in the suspect might explain a false confession. It is not enough, however, to testify that false confessions occur in various circumstances. Rather, testimony must be clinically based and dynamically related to the confession. A 2005 article in *The Journal* called attention to the necessity that expert witnesses know the legal standards underlying the admissibility of testimony.[10] Legal scholars have conducted comprehensive reviews of the federal and state case law regarding the judicial treatment of expert testimony on false confessions.[11,12] As we discuss later, the admissibility of testimony depends on its helpfulness to the trier of fact and on its scientific basis. The following case, taken from an appellate court in New Jersey and decided subsequent to these case law surveys, encompasses many of the judicial concerns expressed regarding the treatment of expert testimony in the context of false confession claims. It is illustrative of the ongoing struggle that courts face as they manage the interplay between the boundaries of expert testimony and the constitutional requirement that a criminal defendant receive a fair trial.

State of New Jersey v. George King

On March 13, 2003, George King was arrested in Newark, New Jersey, for the murder of Edna Ryan.[13] During the interrogation, Mr. King confessed to Ryan's murder, adding, "I might as well tell you about Woodbridge," referring to the unsolved murder of Meifang Rush in Woodbridge, New Jersey, two months earlier. On the basis of his confessions, he was charged with both murders. He pleaded guilty to aggravated manslaughter of Ryan, but claimed that his confession to Rush's murder was fabricated. He claimed that he had also attempted to confess falsely to several other

murders during his interrogation. Police investigators involved in his interrogation claimed that, although he indicated that he possessed information about other unsolved crimes, he confessed only to the murders of Ryan and Rush. He did not assert that his confession was coerced.

Expert Testimony

Mr. King's defense proffered psychiatric testimony to support the false-confession claim. Dr. Roger Harris, a forensic psychiatrist, concluded that Mr. King had narcissistic and antisocial personality disorders with borderline personality traits, making him predisposed to false confessions. He had exaggerated his criminal history to mental health professionals. Harris concluded that Mr. King's grandiosity and need for admiration were the dynamics of the false confessions.

The state moved to exclude the expert testimony regarding Mr. King's personality disorders, asserting that it was not relevant or admissible, because Harris did not provide a scientific basis linking personality disorders to false confessions. In addressing the state's motion, the trial court stated: [B]y human nature, individuals will neither assert, concede, nor admit to facts that would affect them unfavorably. Consequently, statements that so disserve the declarant are deemed inherently trustworthy and reliable…. Dr. Harris offers a reason the Defendant's confession might be false to contrast the usual supposition that confessions, like statements against interests generally, would not be made if they were not true… [Ref. 13, p 816].

In that light, the trial court found that Harris could testify that Mr. King's personality disorders were consistent with his false-confession claim, but restricted him from testifying about "anything the defendant or anyone else told him about the circumstances surrounding the giving of the confession…" (Ref. 13, p 811). Both the defense and prosecution appealed this ambivalent ruling. The state's appeal challenged the admissibility of Harris's testimony, arguing that Mr. King's personality disorders were immaterial to the alleged false confession. The defense appealed the limitation imposed on Harris's testimony.

Appeal and Opinion

The Superior Court of New Jersey, Appellate Division, reviewed the matter and ruled that Harris's testimony regarding Mr. King's personality disorders was admissible. In addressing the state's appeal, the court initially looked to the U.S. Supreme Court decision in *Crane v. Kentucky*.[14] In that case, a criminal defendant appealed his conviction, arguing that the lower court erred in excluding expert testimony that the duration and nature of the interrogation process brought about a false confession. In reversing the conviction, the *Crane* Court pointed out that under the Sixth and Fourteenth Amendments to the Constitution, criminal defendants are entitled to provide juries with reliable and competent evidence addressing the credibility of their confessions, especially when the confession is central to the innocence plea and there is no valid state justification for excluding it. The Court held that the physical and psychological environment in which the confession was obtained was relevant to the defendant's claim of innocence.

Scope of Testimony

With *Crane* in mind, the New Jersey appellate court reviewed cases in other jurisdictions, extending *Crane* beyond the objective interrogation environment to the subjective psychological makeup of defendants. The appellate court cited *People v. Hamilton*,[15] a Michigan Court of Appeals case that reversed the murder conviction of a defendant after he was barred from presenting expert testimony about how his psychological makeup affected the reliability of his statements to police. The Michigan court in *Hamilton*, considering *Crane*, found that although *Crane* dealt with the external interrogation environment, its principle was equally applicable to the psychological makeup of the defendant. As such, the defendant's psychology was considered relevant to the reliability of his confession.

Persuaded by *Hamilton* and similar holdings in other jurisdictions, the New Jersey appellate court found that the testimony regarding Mr. King's personality disorders in relation to the reliability of his confession was relevant. Since Mr. King's confession was "the linchpin of the State's case," the court held that such testimony was necessary to assist the fact finder in assessing the reliability of that evidence. The court, however, pointed out that this testimony could be limited, thus adhering to the judicial interests of presenting competent and reliable evidence to the jury.

Admissibility

In keeping with those judicial interests, the appellate court focused principally on whether the scientific reliability requirement of New Jersey Rule of Evidence 702 was satisfied. The state argued that since Harris did not offer an authoritative source or study linking Mr. King's personality disorders to false confessions, Harris's testimony was not scientifically reliable. For that reason, the state asserted that the trial court erred in admitting the testimony under the general-acceptance standard in *Frye v. United States*.[16] The appellate court, however, disagreed with the state's view.

The court acknowledged that the "general acceptance standard by the relevant scientific community" established in *Frye* determined the scientific reliability of expert testimony in criminal cases in New Jersey. The court indicated that this standard could be established by expert testimony, authoritative scientific literature, or persuasive judicial opinions. According to the court, all of these methods were satisfied in *King*.

The appellate court contrasted the instant case with its earlier decision in *State v. Free*.[17] In *Free*, the Superior Court of New Jersey reversed a trial court's decision to admit social psychologist Kassin's testimony regarding police interrogation techniques challenging the reliability of the defendant's confession. In reversing the decision, the appellate court first found that the trial court erred in applying the *Daubert*[18] standard to the proffered testimony instead of the *Frye* standard. In New Jersey, the admissibility standard for expert testimony in criminal cases is the *Frye* test, whereas the *Daubert* test is applied in civil cases. Under *Daubert*, the judge/gatekeeper would determine, among other things, whether the testimony would be helpful to the jury and is supported by the literature, not just whether the proposed evidence is generally accepted in the field. In its erroneous application of *Daubert*, the trial court in *Free* found the social psychologist's testimony admissible on the basis of specialized knowledge. The appellate court reviewed the testimony under the *Frye* test and did not find general acceptance of the basis of the psychologist's opinion in the relevant scientific community. The appellate court further found that a major defect in the psychologist's testimony was that he addressed only the theoretical effects of police interrogation techniques on confessions and did not evaluate the defendant clinically.

By contrast, the appellate court in *King* observed that Harris personally examined the defendant as a basis for the psychiatric diagnoses. The court found that Harris had diagnosed psychiatric disorders in the defendant that were described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV),[19] and that the "[g]eneral acceptance of the DSM in the psychiatric community is beyond dispute" (Ref. 13, p 821). Thus, the appellate court held that Harris's testimony satisfied the *Frye* test, dismissing the state's argument that his opinions were not scientifically reliable. Furthermore, the court was not persuaded by the state's argument that Harris's opinion was inadmissible, since it was not based on scientific studies showing a causal connection between personality disorders and false confessions. As the court noted, Harris's testimony was offered, not for the purpose of establishing causation but to show that Mr. King's personality disorders were consistent with his false-confession claim. In the court's view, lack of a causal nexus between the influence of Mr. King's personality disorders and his false confession claim went to "the *weight* of Dr. Harris's opinion, not its *admissibility* [emphasis added]" (Ref. 13, p 821).

In further support of this view, the court cited *Beagel v. State*.[20] In *Beagel*, the Alaska Court of Appeals overturned a defendant's manslaughter conviction because the trial court excluded psychiatric testimony that the defendant's self-incriminating statements were caused by confabulation produced by psychogenic amnesia. The *Beagel* court found that the testimony was supported by diagnostic criteria of the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised (DSM-III-R),[21] representing a *prima facie* case that the testimony was based on generally accepted principles in the field of psychiatry, as required by *Frye*. The appellate court in *King* noted that the *Beagel* court was not swayed by the absence of scientific studies linking the defendant's psychiatric diagnosis to false confessions.

The appellate court then turned to Mr. King's appeal of the trial court's order prohibiting his expert from testifying about "*anything* the defendant or anyone else told him about the circumstances surrounding the giving of the confession…" (Ref. 13, p 822; emphasis in the original). The defense argued that since Harris relied on Mr. King's statements during his clinical assessment to formulate his diagnosis and opinion, he be permitted to explain their basis. Otherwise, such a sweeping prohibition would leave Harris with a net opinion. The defense also argued that Harris should be allowed to refer to police investigators' statements, as they supported his opinion that Mr. King attempted to confess falsely to other murders.

Addressing these arguments, the appellate court noted that under Rule 703 an expert witness is permitted to base an opinion on facts not otherwise admissible as evidence. The court also cited the New Jersey decision in *State v. Farthing*,[22] recognizing the admissibility of hearsay statements relied on by an expert, not for the purpose of establishing the statement's truth, but to provide the jury with the basis of the opinion. The court observed that psychiatrists had been permitted regularly to testify in New Jersey criminal cases about a defendant's statements if the expert relied on those statements to reach an opinion about a psychiatric condition. Accordingly, the appellate court found that the blanket prohibition barring Harris's testimony about Mr. King's statements during his clinical interviews was improper. However, the appellate court cautioned that an expert may not be used to circumvent the inadmissibility of hearsay statements to put before the jury evidence that it would not otherwise be permitted to consider. To that end, the court upheld the inadmissibility of the expert's testimony related to police investigators' statements about Mr. King's reference to other unsolved crimes during the interrogation. In the court's view, allowing Harris to represent the investigators' statements as confirmation that Mr. King attempted to provide additional false confessions would be prejudicial to the state's case.

False Confessions: The Elephant in the (Court)room

Obtaining evidence in criminal cases takes on different meaning when it is infused with interpersonal dynamics (the interrogation) and the psychological traits or psychopathology of the suspect. We suggest that the problem of false or unreliable confessions is greater than meets the eye and represents significant discomfort for law enforcement and prosecutors. It is the elephant in the room that often gets ignored.

The significance of false confessions becomes apparent when one considers that one-quarter of the over 200 wrongful convictions overturned by DNA evidence in the United States involved a false confession.[23] Several studies have attempted to measure the breadth of the problem of wrongful convictions based on such confessions. In the first of these studies, Bedau and Radelet[24] identified 350 wrongful convictions in capital and potential capital cases between 1900 and 1985 and found that 49 of them were caused by false confessions. Gross and colleagues[25] examined 340 exonerations in the United States from 1989 through 2003, of which 144 were cleared by DNA evidence and found that 15 percent of these individuals had falsely confessed. That study further indicated that 69 percent of the innocent confessors were either mentally ill or mentally retarded.

In 2000, Scheck and collaborators[26] analyzed 62 cases of wrongfully convicted individuals who had been exonerated by DNA evidence and found that approximately 24 percent involved false confessions. Finally, a 2008 empirical study found that 16 percent of the first 200 individuals exonerated by postconviction DNA testing in the United States had false confessions introduced during their trials.[27] Despite the variability of results in these studies, the message is clear: the risk of wrongful conviction based on false confession is genuine. Thus, to the degree that a suspect's mental state plays into the analysis, there is an opportunity for expert testimony.

Classifying False Confessions

The custodial interrogation process is inherently coercive and designed to produce a confession. We do not take the position that all confessions are the product of coercion or that anyone who confesses is mentally disturbed. Yet, criminal defendants' claims of false confessions are, by nature, counterintuitive.[12] That is, a judge or jury must consider the strange occurrence of an individual's having made a statement against liberty interest. Despite this apparent oddity, the literature supports not only the existence of the false confession phenomenon, but identifies a **confluence of factors that may produce them. For a variety of reasons, ranging from police coercion to a guilt-ridden mind to mental illness or retardation, false or unreliable confessions find their way into criminal cases.[1,11,12]**

Kassin and Keichel[3,4] categorized false confessions into three types: voluntary, coerced-compliant, and coerced-internalized. Voluntary false confessions come about in the absence of overwhelming external stressors by law enforcement. Instead, observes Gudjonsson,[5] an individual may be seeking notoriety, may have guilty feelings about some other transgression, may have an inability to distinguish reality from fantasy, or may be attempting to protect another person. Coerced-compliant false confessions are offered in an attempt to avoid external pressure or to obtain a reward. However, within this framework, the confessor subjectively does not accept the confession as true. Coerced-internalized false confessions involve an innocent person who, because of confusion and the stress of the interrogation, begins to accept criminal responsibility.

Ofshe and Leo[2] propose that the improper use of interrogation techniques can result in four types of false confessions:

2. Stress-compliant, in which the suspect is overwhelmed by the anxiety of the situation, is physically exhausted, or both, and confesses to bring an end to the stress.
3. Coerced-compliant, in which the suspect responds to overt or covert threats of harm, to promises of leniency, or to both, believing that by confessing, punishment will be reduced or eliminated.
4. Persuaded false-noncoerced and -coerced, in which the suspect is persuaded by the interrogator of the probability of guilt, even though the suspect has no memory of the crime. The distinction between the noncoerced and coerced types is the extent to which threats, promises, or other coercive techniques are used.

To bridge the cognitive dissonance of guilt in the face of amnesia, interrogators supply theories such as alcohol- or drug-induced blackout, momentary lapse in consciousness, a repressed memory, or multiple personality.[2] Ofshe and Leo[2] also illustrate multiple dynamics by which skilled interrogators obtain confessions from innocent suspects—for example, the rhetorical minimization of the recited *Miranda* warnings, which can induce hopelessness; interpreting the suspect's demeanor ("I'm a human lie detector"); and fabricating eyewitness corroboration, co-perpetrator confession, or scientific evidence (polygraphy, fingerprints, DNA). From the suspect's side, a variety of mental conditions may contribute to the susceptibility to confessing falsely or to confessing without full understanding of the waiver of rights.[1] These conditions include mental illness (e.g., psychosis, depression), mental retardation, and drug intoxication or withdrawal.

Social Science and Medical Testimony

A defendant facing the legal consequences of a confession given under coercive circumstances often seeks to challenge its validity. Such challenges may be based on the voluntariness of the confession, the credibility of the confession, or both. Various constitutional principles have been identified in the case law that supports such challenges. The Fifth Amendment right against self incrimination, the Sixth Amendment confrontation clause, and the Fourteenth Amendment right to due process are all safeguards against unreliable confessions.[28–31] Yet one may wonder: what, if anything, can psychiatric, psychological, or social scientific testimony bring to the table to aid the trier of fact?

Using the New Jersey cases of *Free* and *King* as examples, one can observe that expert testimony on a false-confession claim may come from criminology or clinical science: social science or medical models. In the social science model, in the testimony, based on studies of how humans behave under stress, the expert witness explains how an individual may make statements against interest for reasons stemming from the suspect-interrogator interaction. For example, in the Ofshe and Leo,[2] Kassin and Keichel,[3,4] and Gudjonssen[5] models, we see a typology linking typical police tactics to psychological types. This is not to say that good detective work produces false, involuntary, or unreliable confessions, only that there is a model that explains a suspect's will being overborne or shaped to the demand characteristics of the situation. In the *Free* ruling, social science testimony was too general to be helpful. Perhaps it would have been admitted if New Jersey had adopted the standard in *Daubert* rather than that in *Frye*. In the medical model, the expert witness looks at the individual suspect to see whether, at the time of the confession, there were cognizable psychological or psychiatric conditions present that support or explain the defendant's claim that the statement was false. For example, as we saw in the *King* case, there were aspects of a personality disorder that contributed to Mr. King's self-incrimination. Similarly, in the schema proposed by Weiss,[1] there are many such scenarios, based on medical diagnoses of the suspect, through which to understand the suspect's choices. We are uncomfortable with the appellate court's elevating DSM-IV to the level of implying that an official diagnosis tells us something meaningful about the reliability of a confession. While no psychiatric diagnosis is ever dispositive of the question of voluntariness or reliability, expert testimony may shed light on how the characteristics of an individual suspect under the specified conditions may have led to a declaration against interest.

How Do We Know What We Know?

It is all too easy to assert that false confessions occur, that there are models to explain them, and that they may be linked to psychopathology. The harder questions involve how expert witnesses can be helpful and educational without breaching the boundaries of knowledge. Expert testimony in confessions cases, as in other areas of the criminal justice process, is provided with reasonable medical (or psychological) certainty. Witnesses must be careful not to accept the defendant's version at face value. Rather, all factors, including objective evidence of the interrogation, the defendant's prior experience, and the Axis I or II diagnosis, must be synthesized. Even so, the witness would not be expected to opine on whether a confession was true or false, only whether scientific evidence supports the defendant's current claim that the confession was false. The situation varies somewhat in the scenario of determining whether the statement was given knowingly, intelligently, and voluntarily. The expert may introduce evidence of state or trait characteristics that may have been in play in the suspect's capacity at the time the *Miranda* warnings were given.[1] There is usually interplay between the suspect's mental state (medical model) and the overall interrogation (social science model).

Before discussing ways in which expert testimony can be introduced, we would like to comment on its scientific basis. It is apparent from the cases cited that courts are legitimately concerned about the basis of a professional's saying anything about a suspect's state of mind during a

custodial interrogation. It is our view that a best-practice approach includes two elements: knowledge of the social science literature regarding police-suspect interactions and the permutations of how a suspect's will and motivations are shaped by the demand characteristics of the interrogation; and clinical data from personal examinations, psychometric testing, medical records, and school records that inform the court, within reasonable scientific certainty, about how, in the instant case, the suspect acted against liberty interest. This is not to say that the two should be given equal weight, since it is clear from case law that without clinical data the social science approach alone is likely to be excluded.[12] Indeed, we suggest that ideal testimony would include an interplay between the two.

Support for this two-pronged approach comes from the philosophy of science, and it is fundamental to medical reasoning. Scientific statements are based on generally accepted laws of nature, coupled with empirical data, forming the distinction between nomothetic and idiographic levels of inference.[32] In this dichotomy, nomothetic facts are general, whereas idiographic ones are specific. Thus, the social science model looks generally at the problem, and the medical model specifically at the person under consideration. It is not our intent to put too fine a point on our characterization of social science information as nomothetic in the sense of following a basic law of nature. The modest analogy we propose is that the literature on the social psychology of confessions is sufficiently robust for expert witnesses to assert, for example, "There are certain characteristics of humans in stressful situations that give rise to adaptations that would be considered self-defeating." There does not appear to be much controversy about whether false confessions occur. The idiographic component, then, paints a picture of the individual in question, whereby the expert witness can testify; for example, "The suspect, with borderline personality disorder and anxiety developed an unrealistic belief that confessing would lead to release from custody." It is our view that such an approach, reflecting ordinary, first-order medical logic, has a sufficient scientific basis to qualify as supportable under the *Frye* or *Daubert* tests.

Further support for this approach is found in a recent review by Chojnacki and colleagues[33] of the admission of expert testimony in false-confession cases. They note, consistent with our observations, that testimony will focus on two broad areas: macro-level research on the subject, and dispositional factors and situational factors, which are psychological traits of individuals (e.g., mental illness or retardation) and specifics of the interrogation that predisposed to a false confession (e.g., police-suspect interactions and physical conditions). They acknowledge that whether the admissibility standard is *Frye*, *Daubert*, or another, the question of the utility of an expert is reduced to "whether the expert's proffered testimony: (1) will assist the jury in evaluating the credibility of the confession and is therefore admissible; or (2) is already within the common knowledge of the jury, making the testimony superfluous and therefore inadmissible" (Ref. 33, pp 20–21). They proceed to discuss the results of their empirical study of "what jurors know." Starting from the assumption that we must know what jurors tend to know before deciding whether expert testimony would assist them, they posed a series of questions to 502 jury-eligible citizens in 38 states. The results showed an impressive lack of knowledge about suspects' rights, confessions, and police. Examples include uncertainty about the role of *Miranda* rights; uncertainty as to whether police can detect lying better than the average person; underestimation of the proportion of suspects who confess; and failure to appreciate that a false confession would lead to a conviction (nearly half of those interviewed). Very few said that one could tell whether a confession is true or false by listening to an audiotape or watching a videotape. Looking at the citizens' self-assessments, the authors found that about 80 percent did not believe that they had sufficient knowledge of confessions to participate in a trial and that an equal number believed that, where the truthfulness of a confession is disputed, they would benefit from expert testimony. Chojnacki *et al*. concluded that these findings lend support to the practice of admitting expert testimony when

the question turns on whether the subject matter is beyond the knowledge of the average citizen. After all, the role of the expert is to educate the court and jury.

Show Me the Data

When weighing the value of expert testimony regarding false confession claims, a critical question that must be addressed is whether the empirical evidence supports the testimony. While the literature regarding the phenomenon of false confessions and the theoretical psychological impact of interrogations on vulnerable populations is abundant, currently there is no empirical evidence that links any particular psychiatric diagnosis with giving false confessions.[34] Many studies focus on factors such as individual susceptibility and compliance in groups such as juveniles and the intellectually disabled, who may be exploited during the interrogation process.[34] Although these studies implicate particular qualities that may give rise to false confessions within these groups, they do not provide a causal link to false confessions or suggest that members of these groups cannot give valid confessions. Moreover, while susceptibility and compliance studies are particularly relevant in alleged coerced false-confession situations, they are less significant in the context of voluntary confessions.

It is possible that, under certain circumstances, an actively psychotic individual who is unable to distinguish reality from delusional beliefs will voluntarily provide unreliable information to authorities. However, there are no scientific studies that establish a causal link between psychosis and false confessions. The absence of such a correlation is also the case with other psychiatric disorders. What, then, is the value of psychiatric and psychological testimony in these cases? First, the expert may educate the jury and the court regarding the existence of false confessions and dispel the common-sense belief that individuals do not falsely incriminate themselves.[35] This point cannot be underestimated when one considers that mock-jury studies have shown reliably that confessions carry more weight than eyewitness and character evidence.[36]

Second, an expert may testify about the presence or absence of mental illness, relevant features of a particular psychiatric diagnosis, if present, and the defendant's mental state at the time of the confession. While the scientific literature may not establish a causal nexus between a particular psychiatric diagnosis and false confessions, an expert may educate the jury about the features of a diagnosis and thereby assist the jury in its determination whether the defendant's diagnosis has caused or is consistent with a false-confession claim. It is our position that since the empirical evidence linking psychiatric diagnoses to false confessions is lacking, it should be left to the jury to determine causation and whether the diagnostic features as outlined by an expert are consistent with a particular defendant's false-confession claim.

Finally, psychiatric and psychological testimony are valuable in cases in which the defendant asserts that mental illness brought about a false confession. As stated in the second point, while an expert should not testify regarding causation in these matters, testimony can be used regarding the presence or absence of mental illness and the impact that the illness may have had on the defendant's mental state. Such a determination would be critical in assessing the defendant's claim and is clearly beyond the knowledge of the average lay person.

Practical Considerations

Thus far, we have looked at the reasons that expert testimony may aid the adjudication of false-confession claims, ranging from the prevalence of the phenomenon to the social and psychological dynamics of interrogations to an education gap in jurors' understanding of the process. From a practical point of view, defendants may have one or more opportunities to raise issues involving expert testimony.

Three Bites of the Apple

A defendant may challenge the reliability of the statement during both the pretrial and trial phases of the criminal matter, as well as in a postconviction relief application. The ability to make such challenges, of course, would be waived by the defendant in the event of a plea agreement, the most prevalent of outcomes. The following discussion suggests uses of expert testimony in cases in which a false-confession claim is made.

First Bite: Pretrial

During the pretrial phase, a motion to suppress the confession may be initiated by the defense to prevent it from reaching the jury at trial. Such a motion is supported by the defendant's constitutional right to a judicial determination of the voluntariness of the confession.[37] In response to this motion, a judicial hearing is held to determine, in light of the totality of the circumstances, whether the statement was voluntary.[38] If the judge determines that the preponderance of the evidence supports a finding of voluntariness, then the defendant's motion is denied, and the confession is admissible at the trial phase.[39] The importance of the false-confession phenomenon becomes magnified when the confession is the key evidence in the prosecution. It comes as no surprise, then, that expert testimony regarding the defendant's cognitive, emotional, or motivational state may come into play. In our experience, judges in evidence-suppression (*Miranda*) hearings are reluctant to rule on the reliability of alleged false confessions; the decision is relegated to the jury. Beyond that is the question of what kinds of expert testimony might be helpful to the jury without prejudicing them or invading their domain.

Second Bite: Trial

Notwithstanding the pretrial judicial determination permitting the jury to hear the confession, the defendant may still challenge its reliability through expert testimony at trial (there is no second bite if a jury trial is waived). Under such circumstances, the prosecution customarily presents a motion to exclude the defense expert's testimony. The trial judge, guided by the applicable admissibility standards for scientific expert testimony, then determines whether the expert's testimony is admissible. If the judge finds that the expert's testimony is inadmissible, the jury must weigh the incriminating statement without hearing the expert's testimony. If the judge finds that the defense expert's testimony is admissible, then the jury may consider the defendant's confession in light of the expert's opinion regarding its reliability.

Third Bite: After Conviction

Confessions are so persuasive that appellate courts, in our experience, are reluctant to overturn a conviction by revisiting a *Miranda* issue, except on procedural grounds (whether or when the suspect was mirandized). Psychiatric and psychological expert opinions may be useful, however, when there was ineffective assistance of counsel by failure to explore bites one and two, and DNA or other scientific evidence needs to be bolstered by a credible explanation of how a false confession came about.

Discussion

The decision in *King* illustrates the delicate balance that courts must apply when weighing a defendant's right to present a complete defense against the judicial interest of allowing only reliable and competent evidence to reach the eyes and ears of the jury. The *King* case involved voluntary statements by the defendant and, accordingly, did not require a pretrial determination of voluntariness. Thus, the appellate court in *King* addressed two major questions: first, whether the psychiatric testimony regarding Mr. King's personality disorders was relevant and material to his false-confession claim and, second, whether the proffered expert testimony satisfied the *Frye* general-acceptance standard of admissibility. The appellate court answered both of these questions in the affirmative. While the *King* decision cannot be generalized in regard to the standard for admissibility, we agree with the court that meaningful connections can be made between personality disorders and false-confession susceptibility. As always, testimony in this regard

would go to the weight of the statement, not its truthfulness. That is, the jury is free to accept the confession at face value, to reject it as unreliable, or to adjust its importance in light of the totality of evidence.

Under the Sixth and Fourteenth Amendments to the Constitution, criminal defendants are entitled to present a complete defense, including the right to confront the state's evidence. In this case, Mr. King's seemingly voluntary statements were the primary evidence against him—the linchpin in the prosecution's case, as the court noted; no physical evidence linked him to the crime. Accordingly, Mr. King's challenging the reliability of his confession was supported by constitutional principles and due-process rights. Moreover, both *Crane* and *Hamilton* established legal precedents that such challenges may address not only the external circumstances surrounding the interrogation (for example, police conduct and conditions of the interrogation), but also the internal psychological makeup of a defendant during the interrogation. As noted by Weiss,[1] internal factors may include mental illness, mental retardation, intoxication, and drug withdrawal. In Mr. King's case, personality disorder, a cognizable mental disorder, may have affected the content and reliability of his statements and thus were deemed relevant to his false-confession claim on appeal.

Relevance is one threshold for the admissibility of an expert's opinion. The testimony must also satisfy a scientific reliability threshold, such as the standards in *Daubert* or *Frye*. In *King*, the *Frye* standard governed the admissibility of expert testimony. Mr. King's expert was required to base his testimony on generally accepted principles in the psychiatric community to be admitted. The general acceptance standard of *Frye* was satisfied in this case, in major part because Mr. King's personality disorders and their diagnostic features were outlined in DSM-IV.[19] In fact, the appellate court pointed out that recognition of a mental disorder by an authoritative source, such as the DSM-IV, represents a *prima facie* case of general acceptance in the psychiatric community. While it may be true that clinicians generally accept DSM-IV for classification purposes, we do not suggest that the willy-nilly use of medical labels should pass for acceptable testimony. The paucity of scientific studies linking the relevant personality disorders to false confessions did not bar the admission of the expert's testimony in *King*, which was otherwise admissible under the *Frye* test. Indeed, had the testimony been merely that individuals with personality disorders are generally susceptible to giving unreliable confessions, it likely would have been barred. Habitual lying would be a dubious example of illustrating such a relationship. One can only imagine the ensuing chaos if the confessions of antisocial individuals were considered unreliable as a matter of law.

Despite the admission of expert testimony in *King* regarding psychiatric disorders in relation to the defendant's false-confession claim, in the absence of scientific evidence supporting a causal link, a word of caution: while studies clearly show that false confessions occur, as experts we must avoid overstating the current empirical evidence regarding the relationship between mental illness and false confessions. Clearly, without such evidence it would be improper for an expert to testify about causation in these matters. Further, a major barrier to testifying with reasonable medical or psychological certainty that a particular diagnosis caused a false confession is that we cannot know that the confession is in fact false. It is the jury's role, not the expert's, to weigh the validity of a confession.

The court in *King* attempted to ease this conundrum by prohibiting testimony on causation; instead, it permitted testimony on whether the defendant's psychiatric diagnosis was consistent with his false-confession claim. However, we argue that the consistent-with standard is simply a variation of causation and remains problematic for the reasons previously outlined. Consequently, it is our view that the jury should weigh whether a defendant's psychiatric diagnosis is consistent with his false-confession claim in light of expert testimony regarding the nature of the defendant's psychiatric illness and mental state at the time of the confession. The expert can best assist the jury

in making this determination by addressing the presence or absence of a psychiatric diagnosis, on the basis of psychiatric history and clinical evaluation; particular features of the defendant's psychiatric diagnosis that may have affected the defendant's ability to communicate with law enforcement (e.g., inability to distinguish reality from delusions); and the defendant's mental state at the time of the confession.

Providing broad statements that a particular psychiatric diagnosis is consistent with a false-confession claim may ultimately diminish the value of expert testimony to the court; features of many psychiatric diagnoses arguably have the potential to produce false confessions under certain circumstances. While the presence of psychiatric diagnoses may open the courtroom door for expert testimony in these matters, experts must be wary of venturing too far without the support of empirical evidence.

Toward a Best-Practice Model

Valid waivers of *Miranda* rights must be knowing, intelligent, and voluntary. Voluntariness comes into question when the defendant claims coercion. The reliability of the content of a statement will come under scrutiny when a defendant claims his or her will was overborne, usually by a combination of factors. These elements can have both objective and subjective dimensions, the former reflecting social science concerns (macro-research, nomothetic), and the latter being more conducive to mental health testimony (dispositional-situational, idiographic).[33] In the earlier New Jersey case, *State v. Free*,[17] the appellate court found inadmissible sociological expert testimony regarding the theory of false confessions on the grounds that it did not satisfy the *Frye* standard, because it merely asserted general theoretical concepts about how a false confession could transpire. In contrast, Mr. King's expert not only offered generally accepted psychiatric principles, but also based his opinion on the psychiatric examination and history of Mr. King, together with the specific circumstances of the interrogation. With this in mind, it is clear that the proffered expert testimony in *Free* fell within the social science model, whereas the medical model underlay the testimony in *King*. The divergent outcomes of these cases demonstrate courts' disapproval of presenting generalized concepts to a jury in the absence of the specific application of those concepts to a particular defendant. That is, judges want less theory and more of a dynamic explanation of how a suspect acted under the specified conditions. Perhaps they understand intuitively that jurors' fund of knowledge is often deficient, as the empirical study showed.[33] Although we understand as psychiatrists that medical reasoning traditionally flows from the general to the specific, when that logic is presented to a jury, it must conform to the prevailing admissibility standard, and the jury must not be left to connect the dots.

Jurisdictions other than New Jersey also appear to favor the medical model in regulating the admissibility threshold. Notably, Soree[12] called attention to state jurisdictions that addressed both models but showed a clear preference for the medical model over the social science model. In Kansas, the medical model was admitted in *State v. Kleypas*,[40] but the court in *State v. Cobb*[41] held that the social science model was inadmissible. In an Illinois case, *People v. Rivera*,[42] the medical model was admitted, but the social science model was excluded. As noted, *King* was decided after the above case law surveys were conducted. Given the inadmissibility of the social science model in the earlier New Jersey decision in *Free*, the *King* decision places New Jersey squarely within the category of state jurisdictions showing a preference for the medical model. As Bear and Bresler[43] commented, testimony regarding specific psychological disorders relevant to a confession may be less likely to elicit a *Daubert* or *Frye* challenge, whereas the value of social science testimony to the jury is often considered by the prosecution and the court as questionable. Hence, we suggest that expert testimony based on the medical model is more likely to result in admissibility in these cases, with the understanding that witnesses must be alert to jurisdictional subtleties and local case law that inform the nature of the testimony.

Accordingly, we offer the following approach to a best-practice model for preparing psychiatric testimony in false-confession cases on the defense side; prosecution-proffered testimony can utilize the model in rebuttal.

1. Be aware of whether the defendant is claiming that he lacked the capacity to waive *Miranda* rights rather than that he confessed because of factors in the circumstances of the interrogation or a breakdown in mental faculties.
2. There is a tendency for attorneys to rely on experts in interrogations to present the theory of false confessions in the service of an argument that the confession may have been false; this theoretical support is not sufficient. Even in jurisdictions that seem to favor the social science model, we recommend clinical correlation.
3. The expert witness should be prepared to use all available data to educate the court about the connection between the circumstances of the interrogation and the suspect's diagnosis on the one hand and the mechanism that produced the incompetent waiver of rights or false confession on the other. These data can be obtained with validated psychometric instruments,[44] so long as they are integrated with other clinical data.
4. Courts generally look unfavorably on sweeping expert opinions that fail to consider the qualities of a specific defendant and the specific circumstances involved in the matter. As a result, a full psychiatric examination of the defendant and a review of the defendant's psychiatric records are likely to be required. Further, the review of any documentation relating to the defendant's confession is critical in assessing the false-confession claim. Such a process would include a review of the complete, unedited video recording of the defendant's interrogation, if available.[45]
5. The proffered testimony is more likely to satisfy the threshold requirement for admissibility if the expert offers a specific DSM-IV diagnosis of the defendant. The lack of scientific studies connecting a psychiatric diagnosis to the making of false confessions should not bar admissibility. As the court in *King* stated, the absence of such studies is a matter of weight, not admissibility.
6. Experts addressing these matters are not permitted to offer testimony regarding causation. In other words, an expert may not testify that a defendant's psychological makeup caused a false confession. Certainly, an expert cannot know that a confession is truly false and, therefore, can only offer factors that may increase the risk of an unreliable confession. Causation is a question of fact to be determined by the jury; for an expert witness to comment on it would be tantamount to saying guilty or not guilty. In assisting a jury's assessment of causation, an expert may testify in some jurisdictions that a particular psychiatric disorder is consistent with a false-confession claim, in the sense that the disorder may have been a factor in this suspect's behavior on this occasion. As noted by Soree citing *United States v. Shay*,[46] Federal Rule of Evidence 702 "prohibits an expert to testify that ′another witness is lying or telling the truth…because the opinion exceeds the scope of the expert's knowledge and therefore merely informs the jury that it should reach a particular conclusion'" (Ref. 12, p 228). Consequently, avoiding interference with the province of the jury is imperative and increases the likelihood that the court will admit the expert opinion.
7. As an exception to the inadmissibility rule of hearsay statements, a psychiatrist may testify about statements made by a defendant during the psychiatric examination if those statements were utilized to formulate the opinion. Essentially, an expert may base an opinion on facts not otherwise admissible as evidence. Prosecutors may view the hearsay exception as a drawback, since it allows the defendant's words to reach the jury without cross-examination. However, by permitting such testimony, this exception facilitates the jury's education about how the expert actually reached the opinion. This perspective becomes obvious when one considers the fundamental role of the expert—assisting the jury to understand subject matter that is beyond the ken of the average citizen. Without the

exception, the jury would only acquire the expert's bottom-line conclusion, thereby undermining its ability to assess the evidence within the full context of the case. Exclusion of such testimony would defeat the overall purpose of presenting an expert witness to the jury.

As the U.S. Supreme Court has noted, quoting Justice White's dissent in *Bruton v. United States*: A confession is like no other evidence. Indeed, "the defendant's own confession is probably the most probative and damaging evidence that can be admitted against him…. [T]he admissions of a defendant come from the actor himself, the most knowledgeable and unimpeachable source of information about his past conduct. Certainly, confessions have profound impact on the jury, so much so that we may justifiably doubt its ability to put them out of mind even if told to do so" [Ref. 31, p 296].

The judicious use of expert testimony, when grounded within the limits of empirical science, has the potential to provide fact-finders with needed perspective.

References

1. *Weiss KJ: Confessions and expert testimony. J Am Acad Psychiatry Law 31:451–8, 2003*
2. *Ofshe RJ, Leo RA: The decision to confess falsely: rational choice and irrational action, in Symposium on Coercion: An Interdisciplinary Examination of Coercion, Exploitation, and the Law. II. Coerced Confessions. Denv U L Rev 74:979–1122, 1997*
3. *Kassin SM: The psychology of confession evidence. Am Psychol 52:221–33, 1997*
4. *Kassin SM, Keichel KL: The social psychology of false confessions: compliance, internalization, and confabulation. Psychol Sci 7:125–8, 1996*
5. *Gudjonsson G: The Psychology of Interrogations, Confessions, and Testimony. Chichester, UK: John Wiley & Sons, 1992*
6. *Wharton F, Stillé A: A Treatise on Medical Jurisprudence (ed 2). Philadelphia: Kay & Brother, 1860*
7. *Wharton F: Involuntary Confessions: A Monograph. Philadelphia: Kay & Brother, 1860*
8. *Drizin SA, Leo RA: The problem of false confessions in the post-DNA world. NC L Rev 82:891–1007, 2004*
9. *Alschuler A: Constraint and confession, in Symposium on Coercion: An Interdisciplinary Examination of Coercion, Exploitation, and the Law. II. Coerced Confessions. Denv U L Rev 74:957–78, 1997*
10. *Quintieri P, Weiss KJ: Admissibility of false-confession testimony: know thy standard. J Am Acad Psychiatry Law 33:535–8, 2005*
11. *Kastenberg JE: A three-dimensional model for the use of expert psychiatric and psychological evidence in false confession defenses before the trier of fact. Seattle U L Rev 26:783–845, 2003*
12. *Soree N: When the innocent speak: false confessions, constitutional safeguards, and the role of expert testimony. Am J Crim Law 32:191–263, 2005*
13. *State v. King, 904 A.2d 808 (N.J. Super. Ct. App. Div. 2006)*
14. *Crane v. Kentucky, 476 U.S. 683 (1986)*
15. *People v. Hamilton, 415 N.W.2d 653 (Mich. Ct. App. 1987)*
16. Frye v. United States, 293 F. 1013 (D.C. Cir. L923)
17. *State v. Free, 798 A.2d 83 (N.J. Super. Ct. App. Div. 2002)*
18. *Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)*
19. *American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. Washington, DC: American Psychiatric Association, 1994*
20. *Beagel v. State, 813 P.2d 699 (Alaska Ct. App. 1991)*
21. *American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised. Washington, DC: American Psychiatric Association, 1987*
22. *State v. Farthing, 751 A.2d 123 (N.J. Super. Ct. App. Div. 2000), cert. denied, 760 A.2d 784 (N.J. 2000)*
23. *The Innocence Project. Available at http://www.innocenceproject.org. Accessed July 13, 2008*
24. *Bedau HA, Radelet ML: Miscarriages of justice in potentially capital cases. Stan L Rev 40:21–179, 1987*
25. *Gross SR, Jacoby K, Matheson DJ, et al: Exonerations in the United States 1989 through 2003, in Symposium: Innocence in Capital Sentencing. J Crim Law Criminol 95:523–60, 2005*
26. *Scheck B, Neufeld P, Dwyer J: Actual Innocence: Five Days to Execution and Other Dispatches From the Wrongly Convicted. New York: Doubleday, 2000*
27. *Garrett BL: Judging innocence. Colum L Rev 108:55–142, 2008*
28. *Bram v. United States, 168 U.S. 532 (1897)*
29. *Brown v. State of Mississippi, 297 U.S. 278 (1936)*
30. *Ashcraft v. State of Tennessee, 322 U.S. 143 (1944)*

31. *Arizona v. Fulminante, 499 U.S. 279 (1991)*
32. *Schäfer M: Nomothetic and idiographic methodology in psychiatry: a historical-philosophical analysis. Med Health Care Phil 2:265–74, 1999*
33. *Chojnacki DE, Cicchini MD, White LT: An empirical basis for the admission of expert testimony on false confessions. Ariz St L J 40:1–45, 2008*
34. *Gudjonsson GH: The Psychology of Interrogations and Confessions: A Handbook. West Sussex, UK: John Wiley & Sons, 2003*
35. *Kassin SM, Gudjonsson GH: The psychology of confessions: a review of the literature and issues. Psychol Sci Public Interest 5:33–67, 2004*
36. *Kassin SM, Neumann K: On the power of confession evidence: an experimental test of the "fundamental difference" hypothesis. Law Hum Behav 21:469–84, 1997*
37. *Jackson v. Denno, 378 U.S. 368 (1964)*
38. *Fikes v. Alabama, 352 U.S. 191 (1957)*
39. *Lego v. Twomey, 404 U.S. 477 (1972)*
40. *State v. Kleypas, 40 P.3d 139 (Kan. 2001)*
41. *State v. Cobb, 43 P.3d 855 (Kan. Ct. App. 2002)*
42. *People v. Rivera, No. 2-98-1662, 2001 WL 1580919 (Ill. App. Ct. 2001)*
43. *Bear JE, Bresler SA: Overshadowing innocence: evaluating and challenging the false confession. Champion 31:16–22, 2007*
44. *Grisso T: Instruments for Assessing Understanding & Appreciation of Miranda Rights. Sarasota, FL: Professional Resource Press, 1998*
45.
46. *Cassell PG: Coerced confessions: balanced approaches to the false confession problem—a brief comment on Ofshe, Leo, and Alschuler, in Symposium on Coercion: An Interdisciplinary Examination of Coercion, Exploitation, and the Law II. Denv U L Rev 74:1123–33, 1997*
47. *United States v. Shay, 57 F.3d 126 (1st Cir. 1995)*

U.S. Supreme Court
Crane v. Kentucky, 476 U.S. 683 (1986)
No. 85-5238
Argued April 23, 1986
Decided June 9, 1986
476 U.S. 683
690 S.W.2d 753, reversed and remanded.
O'CONNOR, J., delivered the opinion for a unanimous Court.
Page 476 U. S. 684

Overview

A week after liquor store clerk was killed, defendant, then 16, was arrested for another crime. According to police, defendant began confessing to a host of crimes. Upon questioning, defendant initially denied involvement in the murder of the store clerk but then confessed to it. At trial, defendant filed a motion to suppress the confession as having been involuntarily given. The trial court denied the motion, finding that the confession was voluntary. Because the prosecution had no physical or other evidence to link defendant to the crime other than his confession, the defense was that his confession was given under circumstances that made its credibility suspect. The trial court, however, excluded all evidence regarding the circumstances under which the confession was given, concluding that such evidence related only to voluntariness, which had already been decided. In overturning the conviction, the Court found that such evidence should have been admitted because its exclusion denied defendant his Fourteenth and Sixth Amendment rights to present a complete defense. The evidence of the voluntariness and the credibility of the confession were not mutually exclusive.

Outcome

The Court reversed defendant's conviction and remanded the case for further proceedings.

United States v. Shay
United States Court of Appeals for the First Circuit
June 22, 1995, Decided
No. 93-2141
Reporter
57 F.3d 126 *; 1995 U.S. App. LEXIS 15360 **; 42 Fed. R. Evid. Serv. (Callaghan) 341
UNITED STATES, Appellee, v. THOMAS A. SHAY,
Defendant - Appellant.

Overview

Defendant was convicted of conspiracy and aiding and abetting an attempt to blow up his father's car, largely based on several incriminating statements that defendant made following the explosion. On appeal, defendant argued that the district court erred in excluding expert testimony that defendant's statements were unreliable because defendant suffered from pseudologia fantastica, a mental disorder that caused him to lie pathologically. The court rejected defendant's other points of error, that the district court incorrectly excluded certain testimony from defendant's former attorney, that the district court inadequately instructed the jury on the defense theory, and that it wrongly excluded defendant's expert testimony regarding his diminished capacity. However, the court agreed with defendant that the district court erred in excluding defendant's expert testimony on

pseudologia fantastica under Fed. R. Evid. 702. The court held that the district court erroneously found that the expert testimony would not assist the jury in evaluating the reliability of defendant's statements, and remanded for further proceedings to determine if the expert testimony was otherwise admissible.

Outcome

The court remanded the case for further proceedings consistent with the court's opinion that it was error for the district court to exclude defendant's expert testimony regarding the reliability of his incriminating statements. The court held that the district court misinterpreted the Federal Rules of Evidence when it found that the expert's testimony would not assist the jury in evaluating the reliability of defendant's statements.

United States v. Hall

United States Court of Appeals for the Seventh Circuit
February 22, 1996, Argued ; August 27, 1996, Decided
No. 95-2994
Reporter
93 F.3d 1337 *; 1996 U.S. App. LEXIS 22173 **; 45 Fed. R. Evid. Serv. (Callaghan) 1
UNITED STATES OF AMERICA, Plaintiff-Appellee, v. LARRY D. HALL, Defendant-Appellant.

Overview

Defendant was convicted of kidnapping a 15-year old girl for purposes of sexual gratification and transporting her out of state in violation of 18 U.S.C.S. § 1201(a)(1). On appeal, defendant argued that the district court should have suppressed his confession and that the district court erred in refusing to permit defendant's experts to testify about false confessions and his susceptibility to coercion. The court reversed the conviction and remanded, holding that the district court failed to apply the correct legal standards under Fed. R. Evid. 702 in considering whether to allow expert testimony on defendant's personality disorder. The district judge concluded that the testimony would not assist the jury because the evidence was within the jury's knowledge. The court found that properly conducted social science research could have shown that the jury's commonly held beliefs were in error. The testimony could have let the jury know of the phenomenon of false confessions, how to recognize it, and how to decide whether it fit the facts of the case. The court held that the error was not harmless because the testimony went to the heart of the defense.

Outcome

The court reversed the conviction for kidnapping and remanded, holding that the district court failed to apply the correct legal standards in considering whether to allow expert testimony on defendant's personality disorder because the testimony could have let the jury know of the phenomenon of false confessions, how to recognize it, and how to decide whether it fit the facts of the case.

United States v. Griffin

United States Court of Appeals for the Armed Forces
October 5, 1998, Argued ; May 12, 1999, Decided
No. 98-0056
Reporter
50 M.J. 278 *; 1999 CAAF LEXIS 722 **

Overview

The government argued that the military judge did not abuse his discretion by excluding appellant's expert's testimony because the testimony was unreliable, had minimal probative value, and would have been confusing and a waste of time. Appellant contended the military judge abused his discretion because his only realistic hope of acquittal was to convince the judge that his confession was either coerced or false. The burden was on the prosecution to establish admissibility of a confession. Appellant's expert's testimony was relevant regarding the characteristics of the accused in relation to psychological coercion, but the reliability of the proffered testimony had not been established. At most, the expert could testify only that appellant's confession was consistent with a coerced compliant type of confession. Furthermore, the proffered evidence shed little light on the question whether appellant was coerced to confess. While the expert diagnosed appellant as having a compliant personality, he also admitted that most successful military persons were compliant. Thus, the expert's testimony was of little value and the decision of the lower court was affirmed.

United States v. McGinnis
United States Army Court of Criminal Appeals
August 19, 2010, Decided
ARMY 20071204
Reporter
2010 CCA LEXIS 96 *; 2010 WL 3931494
UNITED STATES, Appellee v. Specialist PATRICK C. MCGINNIS United States Army, Appellant

Overview

Military judge (MJ) should not have considered whether an expert would have yielded admissible testimony in determining necessity for expert assistance under Gonzalez. But it was his legal conclusion that coercive interrogation technique testimony could never be admissible as a reason for denying expert assistance that further supported the conclusion his decision was arbitrary. The servicemember was denied the opportunity to obtain witnesses and other evidence to develop evidence and test and challenge the government's case as required by Unif. Code Mil. Justice art.

Outcome

The findings and sentence were set aside. A rehearing could be ordered by the same or a different convening authority.

Lunbery v. Hornbeak
United States Court of Appeals for the Ninth Circuit
January 15, 2010, Argued and Submitted, San Francisco, California; May 25, 2010, Filed
No. 08-17576
Reporter
605 F.3d 754 *; 2010 U.S. App. LEXIS 10554 **
KRISTI LYN LUNBERY, Petitioner-Appellant, v. TINA HORNBEAK, Warden; ATTORNEY GENERAL, Respondents-Appellees.

Procedural Posture

A jury found petitioner state prisoner guilty of second degree murder for the murder of her husband. The prisoner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C.S.

§ 2254. The United States District Court for the Eastern District of California denied the petition. The prisoner appealed.

Overview

The state court excluded as hearsay a witness's testimony that an individual admitted that his partners murdered the prisoner's husband in error. Pursuant to Chambers, where constitutional rights directly affecting the ascertainment of guilt were implicated, the hearsay rule could not have been applied mechanistically to defeat the ends of justice. The court found that the individual's statement was against his penal interest because he exposed himself to the risk of criminal prosecution. The individual's statement was made shortly after the murder, and it was corroborated by other evidence in the case. Thus, the excluded testimony bore substantial guarantees of trustworthiness and was critical to the prisoner's defense. The rulings of the state courts were prejudicial to the prisoner's defense because the evidence would probably have led to a state of reasonable doubt. The state courts' application of their evidentiary rules denied the prisoner her constitutional right to present a defense, under the Due Process Clause of the Fourteenth Amendment. The state appellate court's conclusion constituted an objectively unreasonable application of Chambers.

Outcome

The judgment of the district court was reversed. The case was remanded with directions to issue the writ.

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES, Appellee v. Specialist MATTHEW D. BELL United States Army, Appellant

ARMY 20100266

22 March 2013

OPINION OF THE COURT

A military judge sitting as a general court-martial convicted appellant, consistent with his pleas, of one specification of aggravated sexual assault of a child and one specification of abusive sexual contact with a child, in violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920 (2006 & Supp. I 2007) [hereinafter UCMJ]. Contrary to his pleas, a general court-martial composed of officer and enlisted members found appellant guilty of one specification of indecent acts or liberties with a child in violation of Article 134, UCMJ,[1] and found him not guilty of a second specification of indecent acts or liberties with a child. The panel sentenced appellant to a dishonorable discharge, confinement for twenty-five years, forfeiture of all pay and allowances, and reduction to the grade of E-1. The convening authority approved only twenty-four years and six months' confinement, but otherwise approved the adjudged sentence and credited appellant with two days of confinement against the sentence to confinement.[2]

Appellant's case is before this court for review pursuant to Article 66, UCMJ. Appellant raises five assignments of error, three of which merit discussion.[3] First, appellant argues the military judge abused his discretion when he denied the defense motion to compel appointment of a false confession expert as an expert assistant and as an expert witness. Next, appellant argues the military judge abused his discretion when he admitted testimony of a witness's prior consistent statements. Finally, appellant alleges the Article 134, UCMJ, specification of which he was convicted fails to state an offense because it does not allege the terminal element for a Clause 1 or Clause 2 violation. We disagree with appellant's

first two assertions but agree that appellant's latter assertion necessitates the relief granted in our decretal paragraph.

United States v. Dougherty
United States Navy-Marine Corps Court of Criminal Appeals
December 31, 2013, Decided
NMCCA 201300060
Reporter
2013 CCA LEXIS 1072 *; 2013 WL 6858964

Overview

HOLDINGS: [1]-In a prosecution for sexual assault, it was reversible error to find that Mil. R. Evid. 403 prohibited testimony from a forensic psychologist that the servicemember had a suggestible personality that made it more likely for him to falsely confess in response to coercive interrogation tactics; it was not necessary for the servicemember to put on evidence that his confession was actually false before he could challenge the credibility of his confession; [2]-Under Unif. Code Mil. Justice art. 10, 10 U.S.C.S. § 810, no speedy trial violation arose from a facially unreasonable delay because prejudice from the 371-day pretrial confinement was minimal, given that conditions were not harsh or oppressive, no evidence became unavailable, and the servicemember's legal team used the time to its advantage.

State v. Carlson
Supreme Court of Arizona
June 18, 2015, Filed
No. CR-12-0464-AP
Reporter
237 Ariz. 381 *; 351 P.3d 1079 **; 2015 Ariz. LEXIS 197 ***; 715 Ariz. Adv. Rep. 4
STATE OF ARIZONA, Appellee, v. MICHAEL JONATHON CARLSON, Appellant.

Overview

HOLDINGS: [1]-The trial court did not err in admitting defendant's incriminating statements to a television reporter as evidence of the two kidnapping counts because, under the corpus delicti rule, the State met its burden for both charges; blood and DNA evidence linked to the victims was found in his car; [2]-The exclusion of an expert's testimony did not violate defendant's right to present a defense; allowing the expert to testify that defendant said he falsely confessed would have put defendant's statements before the jury cloaked with the implication that the expert believed those statements and relied on them, while shielding defendant from the rigors of cross-examination; [3]-The use of defendant's kidnapping convictions as both aggravating factors under Ariz. Rev. Stat. § 13-751(F)(2) and predicate felonies for felony murder did not violate the federal or Arizona constitutions.

Outcome

Judgment affirmed.

Memory and False Confessions

- Creating False Memories for Crimes
- Alcohol and Confessions
- Alcohol and Memory for Crimes
- Anger and Memory

Creating False Memories for Crimes

Is it possible to create rich, detailed false memories. Even for having committed a felony? Yes.

Constructing rich false memories of committing crime
Shaw & Porter, 2015

This is the first study to provide evidence suggesting that full episodic false memories of committing crime can be generated in a controlled experimental setting. With suggestive memory retrieval techniques, participants were induced to generate criminal and noncriminal emotional false memories, and researchers compared these false memories with true memories of emotional events. After three interviews, 70% of participants were classified as having false memories of committing a crime (theft, assault, or assault with a weapon) that led to police contact in early adolescence and volunteered a detailed false account. These reported false memories of crime were similar to false memories of noncriminal events and to true memory accounts, having the same kinds of complex descriptive and multisensory components. It appears that in the context of a highly suggestive interview, people can quite readily generate rich false memories of committing crime.

- Seventy students met the participation criteria, and the first 60 eligible students participated in the interview stage (Phase 2) in exchange for $50.
- A questionnaire was sent to subjects' primary caregivers. The questionnaires were returned by the caregivers of 91 participants, of whom 70 were deemed eligible to participate.
- Eligibility was based on the caregiver reporting that the participant had experienced at least one highly emotional event in the specified time frame, had not experienced any of the target criminal events, and had never had police contact.
- Researchers instructed caregivers to not discuss any of the events with the participants under any circumstances until the end of the study.
- Researchers used a modified familial-informant false narrative paradigm to attempt to convince young adult participants that they had committed a crime when they were between the ages of 11 and 14.
- In Phase 2 of the study, participants completed three interviews, at approximately 1-week intervals. The interviews were on average around 40 min long.
- Subjects were asked about both a true and the false memory in each of the three interviews.
- Researchers questioned each subject about one event the participant had experienced (true event) and one that the participant had not experienced (false event. The true event was always presented first in an effort to maximize the researcher's credibility.
- For implanting the false memories, strategies were employed throughout all the interviews based on literature regarding factors that facilitate the generation of false confessions (e.g., Kassin et al., 2012). The tactics that were scripted into all three interviews included incontrovertible false evidence ("*In the questionnaire, your parents/caregivers said. . .*"), social pressure ("*Most people are able to retrieve lost memories if they try hard enough*"), and suggestive retrieval techniques (including the scripted guided imagery).
- By the end of the study 70% were classified as having false memories of being involved in the criminal event resulting in police contact.

- Participants were as willing to accept false criminal accounts as they were to accept false noncriminal accounts
- Participants reported significantly more event details for true than for false memories, had more confidence in true than in false memories, and reported that their true memories were more vivid than their false memories.
- T-tests revealed that for participants classified as having false memories, there were no significant differences between the true and false memories in the number of cognitive-operations details, reported anxiety during the event, or the presence of any of the sensory components.
- Not only could the young adults in the study be led to generate false memories, but their rate of false recollection was high, and the memories themselves were richly detailed. Additionally, false memories for perpetrating crime showed signs that they may have been generated in a way that is similar to the way in which false memories for noncriminal emotional memories are generated. False memories for committing crime also shared many characteristics with true memories.
- The results align with the literature suggesting that exposure to misinformation provided by interviewers can lead to major distortions in memory (Morgan et al., 2013), and that malleable reconstructive mechanisms may be fundamental to episodic remembering
- *Fuzzy trace theory* (Brainerd & Reyna, 2002), proposes that a memory may be retrieved not by accessing a fixed representation of a past event, but rather by reactivating incomplete fragments that can be either distorted or accurate, and that may have arisen from other real events. This implies that false memories may actually be recalled in a way that is surprisingly similar to how memories for real events are retrieved.
- True and false memories have many similar features - including being highly detailed and multisensory. These results are also in line with neuroimaging research showing that true and false memories evoke similar brain activation patterns (Stark et al., 2010), and that even highly emotional content may not reliably indicate memory accuracy.
- The relevance of imagination for false memories may be partially explained by the *source-monitoring framework* (e.g., Johnson, Hashtroudi, & Lindsay, 1993), which refers to people's tendency to confuse imagination with reality. Individuals who are recalling details from a visualization exercise or experimenter misinformation can forget the source of their ideas and may think they are recalling details from a genuine experience.
- In particular, it has been shown that *forced-fabrication paradigms*, such as the one used in this study, lead participants to incorporate causally relevant misinformation into memory over time so as to help make sense of events that participants accept or believe happened but cannot remember (e.g., Chrobak & Zaragoza, 2008). In other words, imagined memory elements regarding what something could have been like can turn into elements of what it would have been like, which can then become elements of what it was like.
- This plausibility shift has been supported by the work of Mazzoni, Loftus, and Kirsch (2001), who suggested that perceived plausibility needs to pass only a relatively low threshold in order for a personalized manipulation to produce changes in belief that may then be incorporated into memory.

Corrigendum: Constructing rich false memories of committing crime

Shaw & Porter, 2015

This was a correction published by Shaw and Porter shortly after their study had been published.

Main Findings

Only one finding of interest in the original article was nonsignificant in the corrected analysis: The article reported that *"participants were found to be significantly more likely to report adopting multiple perspectives (i.e., being able to see themselves in the memory*

as well as to see things from their own perspective) in the true than in the false memory" (pp. 297–298); however, as shown in Table 1, that difference was not significant in the corrected analysis. Other changes of note include the following. The mean number of total details recalled for false memories was 64.95 (not 71.76). This was because incorrect cells were included in the original calculation of the details for participants told they had committed assault and assault with a weapon. The mean number of details recalled for assault was 66.25 (not 75.63), and the mean number of details recalled for assault with a weapon was 62.29 (not 71.29).

False Memories of Fabricated Political Events
Steven J. Frenda (2013)
Journal of Experimental Social Psychology. Volume 49, Issue 2, March 2013, Pages 280-286

In the largest false memory study to date, 5,269 participants were asked about their memories for three true and one of five fabricated political events. Each fabricated event was accompanied by a photographic image purportedly depicting that event. Approximately half the participants falsely remembered that the false event happened, with 27% remembering that they saw the events happen on the news. Political orientation appeared to influence the formation of false memories, with conservatives more likely to falsely remember seeing Barack Obama shaking hands with the president of Iran, and liberals more likely to remember George W. Bush vacationing with a baseball celebrity during the Hurricane Katrina disaster. A follow-up study supported the explanation that events are more easily implanted in memory when they are congruent with a person's preexisting attitudes and evaluations, in part because attitude-congruent false events promote feelings of recognition and familiarity, which in turn interfere with source attributions

- Over 5,000 subjects were asked if they remembered fabricated political events.
- About half of the sample showed evidence of memory distortion.
- Political preferences appeared to guide the formation of false memories.
- Suggestions that are congruent with prior attitudes and evaluations can produce feelings of familiarity and recognition.
- These can in turn bias source judgments, leading to false memories

Misinformation can influence memory for recently experienced, highly stressful events
C.A. Morgan III (2013).
International Journal of Law and Psychiatry. Volume 36, Issue 1, January–February 2013, Pages 11-17

A large body of research has demonstrated that exposure to misinformation can lead to distortions in human memory for genuinely experienced objects or people. The current study examined whether misinformation could affect memory for a recently experienced, personally relevant, highly stressful event. In the present study we assessed the impact of misinformation on memory in over 800 military personnel confined in the stressful, mock POW camp phase of Survival School training. Misinformation introduced after the negatively affected memory for the details of the event (such as the presence of glasses or weapons), and also affected the accuracy of identification of an aggressive interrogator. In some conditions more than half of the subjects exposed to a misleading photograph falsely identified a different individual as their interrogator after the interrogation was over. These findings demonstrate that memories for stressful events are highly vulnerable to modification by exposure to misinformation, even in individuals whose level of training and experience might be thought to render them relatively immune to such influences.

- The term "*misinformation effect*" refers to the errors in recalling the details of a past event made by individuals who were subsequently exposed to false or erroneous information about the event. The misinformation effect appears to operate largely outside a person's

awareness. That is, when people claim erroneously that they have seen the misinformation details, they seem to truly believe that they did.

- False memory endorsements about non-trivial items (i.e., weapons) were observed in at least 27% of participants. Even higher endorsement rates, upwards of 80% of participants, occurred with respect to misinformation about uniforms or human faces. That researchers were able to alter memory for such non trivial events in military personnel trained to resist propaganda and exploitation techniques extends the applicability of false memory research to a wider population than heretofore examined, and suggests that these observations should be taken seriously by professionals who work with victims of traumatic stress and who interact with the criminal justice system.
- Consistent with previous reports suggesting that misinformation is more readily accepted by a person when the misinformation is paired with someone who is trusted or who is familiar to that person,
- Thus, it may be that misinformation is more likely to be accepted when presented in association with persons perceived, by the recipients, to be in positions of authority.

The impact of interrogation stress on compliance and suggestibility in U.S. military special operations personnel

Morgan (2020)

Ethics, Medicine and Public Health. Volume 14, July–September 2020, 100499

Summary

The present study was performed to test whether acute stress exposure would significantly increase human compliance and suggestibility. One hundred active duty military participants enrolled in military survival school training were randomized to receive the Gudjonsson Compliance and Suggestibility Scales (GCS and GSS) prior to, during or after exposure to interrogation stress. All participants were also assessed prior to, and after stress exposure for symptoms of dissociation. Stress exposure significantly increased compliance in individuals who exhibited a pre-stress propensity to dissociation; stress exposure significantly increased suggestibility. These data support the view that some individuals are more likely than others to experiencing an increase in compliance and in suggestibility if exposed to interrogation stress. These data also suggest that individuals who are vulnerable to stress induced increases in suggestibility and compliance can be identified using psychological measures of dissociation.

Reconstructing alcohol-induced memory blackouts

Robert A. Nash (2011)

Memory. Volume 19, 2011 - Issue 6, pp.566-573

Blackouts afford an excellent opportunity to study the strategies people use to reconstruct forgotten experiences. Researchers conducted a survey of university students to explore how people choose to reconstruct blackouts, and the likely accuracy of these reconstructions. Their findings add to the growing research literature on people's strategies for validating their past experiences, and highlight the important role of external sources in the reconstruction process. The data showed that people's desire to ''fill in the blanks'' can lead them to rely on rather unreliable sources, and may also encourage them to adopt weaker source-monitoring criteria. Indeed, in at least some cases reconstructing blackouts appears to lead to the development of false beliefs or memories.

- A total of 280 students (78.2% female; age M 22.2 years, SD 5.10, Range 18 47) voluntarily completed an Internet survey investigating students' experiences of the effects of alcohol on memory.
- Section 1. The first section of the survey assessed participants' evaluations of different strategies for reconstructing blackouts. Researchers told participants to imagine they went

to a party and drank a lot of alcohol, but the next morning they remembered nothing that happened after arriving. They then asked participants how motivated they would be to find out what happened at the party and how motivated they would be to use each of eight strategies to this end.

- Finally the participants rated how reliable they thought each strategy would be for obtaining accurate information.
- Section 2. The second section asked participants about their experience of helping others to reconstruct blackouts. Researchers asked whether any of the following statements were true of at least one such occasion: (1) ''*some of the details may have been unintentionally inaccurate*''; (2) ''*I made up some of the details*''; (3) ''*I gave the other person an entirely made-up account of what they did.*'' Where applicable, participants were asked to describe what they had told the blackout sufferer, and the reasons for their possible inaccuracies.
- Section 3. Section 3 asked about participants' experiences of reconstructing their own blackouts.
- Participants first reported whether they had ever experienced a partial or total blackout. Participants who selected ''*Total''* or ''*Partial''* were asked to select which if any external source types (intoxicated people; non-intoxicated people; photos/videos; other physical evidence) they had relied on to reconstruct real blackouts.
- Finally they were asked whether they had ever learnt that they did something during a blackout, only to discover later that it never really happened.
- Overall, participants said they would be highly motivated to reconstruct a blackout.
- Blackout sufferers were relatively more motivated to rely on friends who had been intoxicated
- When blackout sufferers reported the external sources they had consulted to reconstruct real blackouts, researchers observed that consulting intoxicated people was somewhat more common.
- Although this retrospective data relied on self-reports, and so were vulnerable to recollection biases and errors, the data suggests that when people reconstruct forgotten recent episodes just as when verifying childhood memories they tend to rely on rather unreliable information sources.
- One interesting finding was that blackout sufferers as compared to drinkers who had never experienced a blackout placed significantly more confidence in the reliability of intoxicated people, and said they would be more motivated to obtain information from them.

Assessing the Diagnosticity of a Persuasion-Based and a Dialogue-Based Interrogation Approach

Joseph Eastwood, 2020

Journal of Police and Criminal Psychology

The current study assessed the relative propensity of a persuasion-based and a dialogue-based interrogation approach to generate true and false confessions (i.e., their diagnosticity). Following the Russano cheating paradigm, participants were first either induced or not induced to cheat on an experimental task to create innocent and guilty conditions. An experimenter, blind to the participants' guilt or innocence, then attempted to generate a confession using a persuasion-based or a dialogue based interrogation approach. Chi-square analyses showed that both interrogation approaches generated an equally high proportion of true confessions from guilty participants (95% for both approaches; $p = 0.942$) but that the persuasion-based approach generated substantially more false confessions from innocent participants than the dialogue-based approach (45% vs. 0%, respectively; $p = 0.001$). The dialogue-based approach's clear advantage over the persuasion-based approach in this study adds to the call for law enforcement organizations to utilize dialogue-based approaches within real-world interrogations.

- The predominant interrogation approach utilized in North America today is the Reid Technique and similar accusatorial style approaches (Inbau et al. 2011; Miller et al. 2018). The Reid technique can be classified as a persuasion based approach as it uses psychologically manipulative tactics to try and generate confessions from suspects deemed likely to be guilty (Meissner and Russano 2003).
- These tactics include having the interrogator stress that they are certain of the guilt of suspect at the beginning of the interrogation (e.g., "There is no doubt in my mind that you took the money"; direct positive confrontation), providing face-saving justifications that minimize and normalize the crime (e.g., "Maybe you just took the money to help buy food for your family; theme development), not allowing the suspect to voice denials regarding their involvement in the crime, and eventually presenting the suspect with two options for why they committed the crime, one reprehensible and one understandable (e.g., Did you steal the money to buy drugs, or to buy food for your family?; alternative question). It is argued that systematic application of these tactics through the Reid technique's nine-step process will cause many suspects to confess to their involvement in a criminal offence (Inbau et al. 2011).
- Kassin and Kiechel (1996) found that over 90% of participants falsely confessed to making a computer crash when presented with untrue inculpatory evidence
- a collaboration of academics and law enforcement officers in the UK created the PEACE model of investigative interviewing in the early 1990s (see Snook et al. 2010). PEACE is an acronym for the five stages of the interview process: Preparation and Planning, Engage and Explain, Account, Closure, and Evaluation. The PEACE model is an inquisitorial method that employs a noncoercive information gathering approach to interviewing all interviewee types (Meissner and Russano 2003; Snook et al. 2010; Gudjonsson and Pearse 2011).
- Unlike the Reid technique and similar approaches, PEACE contains no tactics designed to explicitly generate an admission or confession from the suspect and instead focuses primarily on generating dialogue with a suspect which can then be compared with the existing case evidence to determine veracity (see Centrex 2004).
- Analyses of confession rates in the UK before and after the implementation of the PEACE model, however, show similar rates of confessions (Hartwig et al. 2005).
- A fundamental feature of an effective interrogation approach is its *diagnosticity* - the ability to generate true confessions from guilty suspects while not generating false confessions from innocent suspects.
- The sample consisted of 80 students
- The two interrogation scripts were designed to represent either a persuasion-based approach or a dialogue-based approach. Both approaches contained two pieces of evidence that supported the experimenter's belief in the participant's guilt—identical wrong answers on a specific question in the individual problem-solving task and that the confederate suggested to the experimenter that the participant had in fact helped on that question. In the persuasion-based approach, the experimenter used the following script to try and elicit a confession:
- Both persuasion-based and dialogue-based approaches were highly effective at eliciting true confessions - approximately 95% of guilty participants in both conditions confessed.
- The persuasion-based approach elicited substantially more false confessions than the dialogue-based approach (45% vs. 0%, respectively).
- There was a notable difference across interrogation conditions for innocent participants. Specifically, almost half of the participants in the persuasion-based condition provided a false confession compared with no false confessions within the dialogue based condition.
- Not a single participant in the innocent condition provided a false confession—despite this appearing to be a key motivator for guilty participants to confess.

Alcohol and Confessions

Alcohol and drug intoxication during police interrogation and the reasons why suspects confess to the police.

Sigurdsson, Jon F. and Gudjonsson, Gisli H.

Addiction, Vol 89(8), Aug, 1994. pp. 985-997.

Abstract:

Examined effects of alcohol or drug intoxication, and withdrawal symptoms on the mental state of 344 criminal suspects (aged 17–64 yrs) and the nature of their confession. The confession rate was 92%, with serious traffic violators having the highest confession rate (95%) and sex offenders the lowest (83%). 'Perception of proof,' 'internal need to confess,' and 'external pressure' were the main reasons why suspects confessed. However, Ss were identified who had experienced a typical 'prisoner's dilemma' phenomenon during the police interview because of a co-defendant. Alcohol and drug intoxication were commonly reported both at the time of the offense and at the police interview. Intoxication and withdrawal symptoms were consistently reported as making Ss confused at the police interview.

Intoxicated witnesses and suspects: An archival analysis of their involvement in criminal case processing.

Palmer, Francesca T., et.al.

Law and Human Behavior, Vol 37(1), Feb, 2013. pp. 54-59.

Abstract:

Research about intoxicated witnesses and criminal suspects is surprisingly limited, considering the police believe that they are quite ubiquitous. In the present study, we assessed the involvement of intoxicated witnesses and suspects in the investigation of rape, robbery, and assault crimes by analyzing cases that were referred by the police to a prosecutor's office. Results indicated that intoxicated witnesses and suspects played an appreciable role in criminal investigations: Intoxicated witnesses were just as likely as sober ones to provide a description of the culprit and to take an identification test, suggesting criminal investigators treat intoxicated and sober witnesses similarly. Moreover, intoxicated suspects typically admitted to the police that they had consumed alcohol and/or drugs, and they were usually arrested on the same day as the crime. This archival analysis highlights the many ways in which alcohol impacts testimony during criminal investigations and underscores the need for additional research to investigate best practices for obtaining testimony from intoxicated witnesses and suspects.

Alcohol intoxication alters cognitive skills mediated by frontal and temporal brain regions.

Magrys, S. A. and Olmstead, M. C..

Brain and Cognition, Vol 85, Mar, 2014. pp. 271-276.

Abstract:

Alcohol intoxication affects frontal and temporal brain areas and may functionally impair cognitive processes mediated by these regions. This study examined this hypothesis by testing the effects of alcohol on sustained attention, impulsivity, and verbal memory. Sober and placebo control groups were used to distinguish pharmacological from expectancy effects of alcohol. One hundred nine university students were assigned to an alcohol (low, medium, or high dose), placebo or sober group. Moderate and high doses of alcohol impaired all cognitive measures. A gender effect was revealed in that alcohol impaired sustained attention in males, but not females. Both sustained attention and verbal memory exhibited a U-shaped pattern, in that the medium-dose alcohol group showed the greatest impairment. This study adds to knowledge about the effects of alcohol intoxication on frontally- and temporally-mediated cognitive function. These findings have specific

relevance for heavy-drinking undergraduate populations, particularly in light of the fact that repeated alcohol administration produces persistent changes in brain neurocircuitry.

Juror perceptions of intoxicated suspects' interrogation-related behaviors.
Mindthoff, Amelial, et.al.
Criminal Justice and Behavior, Vol 47(2), Feb, 2020. pp. 222-246.
Abstract:

Alcohol-intoxicated suspects' confessions are admissible in U.S. courts; however, it is unknown how jurors evaluate such confessions. Study 1 assessed potential jurors' perceptions of intoxication in interrogative contexts. Many respondents were unaware that questioning intoxicated suspects and presenting subsequent confessions in court are legal, and respondents generally reported they would rely less on intoxicated than sober confessions. In Study 2, potential jurors read a case about a defendant who had confessed or not while sober or intoxicated. Participants who read about an intoxicated defendant perceived the interrogation as more inappropriate and the defendant as more cognitively impaired than did participants who read about a sober defendant, and as a result, they were less likely to convict. Furthermore, intoxicated confessions influenced conviction decisions to a lesser extent than did sober confessions. Findings suggest that investigators might consider abstaining from interrogating intoxicated suspects or else risk jurors finding confessions unconvincing in court.

Alcohol and Memory for Crimes

Alcohol, and the effects of alcohol on memory and general cognitive functioning, has been the subject of much research over the years.

Alcohol acts as a general central nervous system depressant, but it affects some areas of the brain more than others. Specifically, it leads to distraction and inattention and significantly inhibits neuronal activity in the hippocampus, which impairs memory encoding since the hippocampus plays an important role in the formation of new declarative memories. Because procedural memory functions more or less automatically, retrieval of procedural memory ("remembering how") is not as severely impaired by alcohol as retrieval of declarative memory ("remembering what").

Alcohol particularly impairs the encoding of episodic memory (that part of declarative memory that relates to our personal experiences and specific events in time), especially for certain types of recall, such as cued recall, the recognition of completed word fragments and free recall. A "blackout" is an example of a difficulty in the encoding of episodic memories due to high doses of alcohol. It is caused by a rapid increase in blood alcohol concentration, which in turn distorts the activity of neurons in the hippocampus, thus impairing person's ability to form new episodic memories. Alcohol also severely disrupt the encoding and storage process of new semantic memories (our memory of facts, meanings and acquired knowledge about the external world), although apparently not that of previously learned information.

Alcohol also impairs short-term (working) memory, although mainly by affecting certain mnemonic strategies and executive processes rather than by shrinking the basic holding capacity of working memory or by physically altering the structure of those parts of the brain which are critical for working memory function. Although light to moderate drinking does not appear to impair long-term cognitive functioning significantly (and according to some studies, may actually decrease the risk of cognitive decline), heavy drinking and chronic alcoholism is associated with long-term impairment in sustained attention and working memory function, especially visual working memory.

Serious over-consumption of alcohol, especially in comparison with the intake of other foods, can cause a thiamine deficiency, leading to a much more serious form of amnesia known as Korsakoff's syndrome.

The Human Memory website: http://www.human-memory.net/disorders_alcohol.html

Research regarding Alcohol impact on Memory

The Effects of Alcohol on Crime-related Memories: A Field Study

Kim van Oorsouw, Harald Merckelbach

Applied Cognitive Psychology, Vol 26(1), Jan-Feb, 2012 pp. 82-90. Publisher: John Wiley & Sons

Summary

This field study investigated to what extent memory of criminally relevant details is affected at (close to) zero ($M_{BAC} = 0.00\%$), moderate ($M_{BAC} = 0.06\%$), and high ($M_{BAC} = 0.16\%$) levels of alcohol intoxication. Participants ($N = 76$) were approached in bars and were invited to watch a mock crime from a perpetrator perspective. We also measured their blood alcohol concentration levels. After 3–5 days, when participants were sober, they underwent a free and cued recall task about the mock crime. Compared with sober controls, both moderately and highly intoxicated individuals were less complete when recollecting crime details, recalling up to 33% fewer correct details. Overall, intoxicated participants were less accurate during the cued recall task (i.e. they produced more errors) relative to sober participants. These accuracy effects were dose-dependent for cued recall of salient features. Implications for police interrogations of defendants are discussed.

Intoxicated Eyewitnesses: The Effects of Alcohol on Eyewitness Recall across Repeated Interviews

David La Rooy, Annabelle Nicol and Philip Terry

Open Journal of Medical Psychology, **02**, 03, (107), (2013).

Abstract

The study evaluated the usefulness of repeat-interviewing of witnesses to crimes who were intoxicated by alcohol at the time of the incident and their first interview, and then re-interviewed when not intoxicated the following day. Sixty young, social drinkers were divided into three groups. One group was given a "placebo" (alcohol-like) beverage, a second was given a "low dose" of alcohol (0.2 g/kg men; 0.17 g/kg women), and a third was given a "high dose" of alcohol (0.6 g/kg men; 0.52 g/kg women) over a 15 minute period. Twenty minutes later they viewed a 4-minute video of a crime, and afterwards they were given two opportunities to recall everything that they could remember from the incident; the first opportunity was immediately after the event, and the second was 24 hours later. Analyses of the quantity and accuracy of the details recalled revealed no overall increase in the total amount of information recalled between the first and second recall opportunities. However, on average, 18% of the details recalled by participants in the second test were new and accurate. The incidence of contradictions between the first and second recall opportunities was less than 1%. Surprisingly, none of the effects were influenced by alcohol, even at the highest dose. The results imply that 1) memory for at least some incidents observed under the influence of alcohol is resilient even up to relatively high blood-alcohol levels; and 2) the repeated interviewing of witnesses who were intoxicated at the time of the crime can reveal additional, reliable information that is not present at the initial interview, just as is the case for non-intoxicated witnesses.

Bottled memories: On how alcohol affects eyewitness recall.

Hagsand, Angelica, et al.

Scandinavian Journal of Psychology, Vol 54(3), Jun, 2013. pp. 188-195.

Abstract:

This study investigated how different doses of alcohol affected eyewitness recall. Participants ($N = 126$) were randomly assigned to three groups with different blood alcohol concentration (BAC), either a control group (mean BAC 0.00%, $N = 42$), a lower alcohol dose group (mean BAC 0.04%, $N = 40$), or a higher alcohol dose group (mean BAC 0.06%, $N = 44$). After consumption, participants witnessed a movie of a mock crime and were interviewed one week later. The main results showed that witnesses with the higher intoxication level recalled fewer details compared to witnesses with the lower intoxication level. The amount of alcohol consumed did not have an impact on the accuracy rate. No sex differences were found. The results are discussed in the light of past research. We conclude that more studies are needed before recommendations can be made to an applied setting.

Alcohol intoxicated eyewitnesses' memory of intimate partner violence.

Karlén, Malin Hildebrand, et al.

Psychology, Crime & Law, Vol 21(2), Feb, 2015. pp. 156-171.

Abstract:

Alcohol affects memory in many, and mostly negative, ways. This is a problem in legal contexts as many witnesses are alcohol intoxicated when taking part of the critical event. However, research is sparse regarding how, and under what circumstances, the reports of alcohol intoxicated witnesses differ from those of sober witnesses. This study investigated whether alcohol intoxicated and sober eyewitnesses differ regarding completeness, accuracy, and type of information reported, as well as whether gender influenced these variables. Eighty-seven healthy men ($n = 44$) and women ($n = 43$) received either an

alcoholic beverage (0.7 g/kg) or a control (juice) in a laboratory setting before viewing a film picturing intimate partner violence. Ten minutes after viewing the film, they were interviewed. Reports by alcohol intoxicated women were less complete, but as accurate, as sober women's. In contrast, intoxicated and sober men did not differ regarding completeness or accuracy. Furthermore, compared with sober women, intoxicated women reported fewer actions but no difference was found between the groups regarding reported objects. At this moderate dose, alcohol affected women's reports more than men's, which may be because alcohol affects attention and memory consolidation more clearly at a lower dose for women than for men.

Alcohol intoxication impairs memory and increases suggestibility for a mock crime: A field study.

Van Oorsouw, K., et al.

Applied Cognitive Psychology, Vol 29(4), Jul-Aug, 2015. pp. 493-501.

Abstract:

Defendants and witnesses are often intoxicated by alcohol. We investigated whether memory and resistance to suggestive cues are undermined at blood alcohol concentrations (BACs) that were (close to) zero (M_{BAC} = 0.01%), moderate (M_{BAC} = 0.06%), or high (M_{BAC} = 0.16%). Participants (N = 67) were approached in bars and instructed to commit a mock crime. Immediately after this, their memory and susceptibility to suggestive questions were tested, and these were re-tested during a sober follow-up 3–5 days later. Compared with sober participants, moderate and severe intoxication was associated with lower levels of correctly recalled crime details during both test sessions (i.e. intoxicated and sober). Also, during both sessions, severely intoxicated participants displayed a greater tendency to go along with suggestive cues compared with sober participants. Thus, intoxication impaired memory and increased suggestibility during an immediate interview, and both effects persisted when sober again.

Intoxicated witnesses: Testing the validity of the Alcohol Myopia Theory.

Authors:

Crossland, Deborah, et al.

Applied Cognitive Psychology, Vol 30(2), Mar-Apr, 2016. pp. 270-281.

Abstract:

In an assessment of the Alcohol Myopia Theory (AMT), the effects of alcohol on an eyewitness's recall of high-salience and low-salience details were investigated. In a laboratory, Study 1 participants watched a staged videoed theft whilst either sober (control or placebo), above (M_{BAC} = 0.09%) or below (M_{BAC} = 0.06%) the UK drink-drive limit. A week later, a free recall and recognition tests were completed. Intoxication was not found to reduce recall accuracy using either recall task. In Study 2, whilst on a night out, participants watched the videoed theft with high (M_{BAC} = 0.14%) or low (M_{BAC} = 0.05%) blood alcoholconcentrations (BACs). A week later, the free recall and recognition tests were attempted. High BACs were seen to impair recall when memory was assessed through free recall but not with the recognition test. Neither study found the attention narrowing predicted by AMT using either recall technique, although poor recall for low-salience details in all groups may have contributed to this result.

The effects of acute alcohol intoxication on the cognitive mechanisms underlying false facial recognition.

Colloff, Melissa F. and Flowe, Heather D.

Psychopharmacology, Vol 233(11), Jun, 2016. pp. 2139-2149.

Abstract:

Rationale: False face recognition rates are sometimes higher when faces are learned while under the influence of alcohol. Alcohol myopia theory (AMT) proposes that acute alcohol intoxication during face learning causes people to attend to only the most salient features of a face, impairing the encoding of less salient facial features. Yet, there is currently no direct evidence to support this claim.
Objectives: Our objective was to test whether acute alcohol intoxication impairs face learning by causing subjects to attend to a salient (i.e., distinctive) facial feature over other facial features, as per AMT.
Methods: We employed a balanced placebo design (N = 100). Subjects in the alcohol group were dosed to achieve a blood alcohol concentration (BAC) of 0.06 %, whereas the no alcohol group consumed tonic water. Alcohol expectancy was controlled. Subjects studied faces with or without a distinctive feature (e.g., scar, piercing). An old-new recognition test followed. Some of the test faces were 'old' (i.e., previously studied), and some were 'new' (i.e., not previously studied). We varied whether the new test faces had a previously studied distinctive feature versus other familiar characteristics.
Results: Intoxicated and sober recognition accuracy was comparable, but subjects in the alcohol group made more positive identifications overall compared to the no alcohol group.
Conclusions: The results are not in keeping with AMT. Rather, a more general cognitive mechanism appears to underlie false face recognition in intoxicated subjects. Specifically, acute alcohol intoxication during face learning results in more liberal choosing, perhaps because of an increased reliance on familiarity.

Witnesses stumbling down memory lane: The effects of alcohol intoxication, retention interval, and repeated interviewing.

Hagsand, Angelica V., et al.

Memory, Vol 25(4), Apr, 2017. pp. 531-543.

Abstract:

Intoxicated eyewitnesses are often discredited by investigators and in court, but few studies have examined how alcohol affects witnesses' memory. The primary aim of the present study was to examine how intoxication (alcohol vs. control), retention interval (immediate vs. one week delay), and number of interviews (one vs. two interviews) affect witnesses' memory. The participants ($N = 99$) were randomly assigned to consume either orange juice or alcohol mixed with orange juice, and they all witnessed a filmed mock crime afterwards. The recall took place either (a) immediately and after a one week delay or (b) after a one week delay only. No main effect of alcohol was found on the quantity or quality of the witnesses' statements. Both intoxicated and sober witnesses recalled more details, and were more accurate, during immediate compared to delayed recall. For witnesses interviewed twice, an average of 30% new details were provided in the second compared to the first interview, and these were highly accurate. In sum, contrary to what one can expect, intoxicated witnesses with a low to moderate blood alcohol concentration (below 0.10%) were reliable witnesses.

Alcohol-induced retrograde facilitation renders witnesses of crime less suggestible to misinformation.

Gawrylowicz, Julie., et al.

Psychopharmacology, Vol 234(8), Apr, 2017. pp. 1267-1275.

Abstract:

Rationale: Research has shown that alcohol can have both detrimental and facilitating effects on memory: intoxication can lead to poor memory for information encoded *after* alcohol consumption (anterograde amnesia) and may improve memory for information encoded *before* consumption (retrograde facilitation). This study examined whether alcohol consumed *after*witnessing a crime can render individuals less vulnerable to

misleading post-event information (misinformation). Method: Participants watched a simulated crime video. Thereafter, one third of participants expected and received alcohol (alcoholgroup), one third did not expect but received alcohol (reverse placebo), and one third did not expect nor receive alcohol(control). After alcohol consumption, participants were exposed to misinformation embedded in a written narrative about the crime. The following day, participants completed a cued-recall questionnaire about the event. Results: Control participants were more likely to report misinformation compared to the alcohol and reverse placebo group. Conclusion: The findings suggest that we may oversimplify the effect alcohol has on suggestibility and that sometimes alcohol can have beneficial effects on eyewitness memory by protecting against misleading post-event information.

Alcohol intoxicated witnesses: Perception of aggression and guilt in intimate partner violence.

Hildebrand Karlén, Malin, et al.

Journal of Interpersonal Violence, Vol 32(22), Nov, 2017. pp. 3448-3474.

Abstract:

Many witnesses to violent crimes are alcohol intoxicated, but research is lacking regarding how alcohol affects their perception of aggression and guilt. This study investigated to what extent alcohol intoxicated eyewitnesses differed from sober witnesses regarding how aggressive and guilty they perceived the involved parts in an intimate partner violence (IPV) situation. Eighty-seven healthy men (n = 44) and women (n = 43) were randomized to an alcohol group (0.7 g/kg) or a non-alcohol group. In a laboratory setting, alcoholic/non-alcoholic drinks were consumed before viewing a film depicting IPV between a man and a woman. Ten min after viewing, in an interview, the participants rated how aggressive and guilty they perceived the involved parts to be. Alcohol intoxicated participants perceived both parts' physically aggressive behavior as comparatively less severe, but their neutral behavior as more hostile. Sober witnesses perceived the man to be the most guilty part, whereas intoxicated witnesses distributed guilt more evenly. Alcohol had a strong but complex impact on the perception of aggression in IPV (i.e., heightened during the neutral interaction and lowered during physical aggression). These results may be explained by the cognitive consequences of alcohol's anxiety-dampening effects. Regarding the asymmetric difference in perceived guilt, stereotypical expectations of gender-appropriate behavior in an IPV situation may need to be considered.

Interviewing intoxicated witnesses: **Memory performance** in **theory** and **practice**.

Authors:

Hildebrand Karlén, Malin

Scandinavian Journal of Psychology, Nov 20, 2017.

Abstract:

Memory encoding and recall involving complex, effortful cognitive processes are impaired by alcohol primarily due to impairment of a select few, but crucial, cortical areas. This review shows how alcohol affects some, but not all, aspects of eyewitnesses' oral free recall performance. The principal results, so far, are that: a) free recall reports by intoxicated witnesses (at the investigated BAC-levels) may contain less, but as accurate, information as reports by sober witnesses; b) immediate reports given by intoxicated witnesses may yield more information compared to reports by sober witnesses given after a one week delay; c) an immediate interview may enhance both intoxicated and sober witnesses' ability to report information in a later interview; and d) reminiscence seems to occur over repeated interviews and the new information seems to be as accurate as the previously reported information. Based on this, recommendations are given for future research to enhance understanding of the multifaceted impact of alcohol on witnesses' oral free recall of violent crimes.

The impact of own and others' alcohol consumption on social contagion following a collaborative memory task.
Thorley, Craig, and Christiansen, Paul.
Memory, Vol 26(6), Jul, 2018. pp. 727-740.
Abstract:

When one person alters his or her recollection of an event to be consistent with another person's erroneous account of the same event, social contagion has occurred. In two studies, we examined whether alcohol consumption influences the degree to which people engage in social contagion. In Study 1, participants consumed alcohol, an alcohol placebo, or a soft drink and then completed a collaborative recall test with a confederate who consumed a soft drink. In Study 2, participants consumed a soft drink and then completed a collaborative recall test with a confederate they believed had consumed a soft drink or alcohol (but no alcohol was ever consumed). In both studies, the confederate made scripted errors during the collaborative recall test. On post-collaborative individual recall and recognition tests, participants in both studies engaged in social contagion by including the confederate's errors in their own recollection. In Study 1, the drink participants consumed had no influence on social contagion. In Study 2, participants were less likely to engage in social contagion after collaborating with a confederate who had seemingly consumed alcohol. That same confederate was viewed as less accurate, trustworthy, and credible, which likely made participants less inclined to engage in social contagion.

Do intoxicated witnesses produce poor facial composite images?
Bayless, S. J., Harvey, A. J., Kneller, W., and Frowd, C. D.
Psychopharmacology, Vol 235(10), Oct, 2018. pp. 2991-3003.
Abstract:

Rationale: The effect of alcohol intoxication on witness memory and performance has been the subject of research for some time, however, whether intoxication affects facial composite construction has not been investigated. Objectives: Intoxication was predicted to adversely affect facial composite construction. Methods: Thirty-two participants were allocated to one of four beverage conditions consisting of factorial combinations of alcohol or placebo at face encoding, and later construction. Participants viewed a video of a target person and constructed a composite of this target the following day. The resulting images were presented as a full face composite, or a part face consisting of either internal or external facial features to a second sample of participants who provided likeness ratings as a measure of facial composite quality. Results: Intoxication at face encoding had a detrimental impact on the quality of facial composites produced the following day, suggesting that alcohol impaired the encoding of the target faces. The common finding that external compared to internal features are more accurately represented was demonstrated, even following alcohol at encoding. This finding was moderated by alcohol and target face gender such that alcohol at face encoding resulted in reduced likeness of external features for male composite faces only. Conclusions: Moderate alcohol intoxication impairs the quality of facial composites, adding to existing literature demonstrating little effect of alcohol on line-up studies. The impact of intoxication on face perception mechanisms, and the apparent narrowing of processing to external face areas such as hair, is discussed in the context of alcohol myopia theory.

The devil is not only in the details: Gist and detail elaboration in intoxicated witnesses' reports of interpersonal violence.
Hildebrand Karlén, Malin, et al.
Psychology, Crime & Law, Oct 2, 2018.
Abstract:

The empirical base relating to alcohol's effects on underlying memory mechanisms among witnesses is sparse. Therefore, the effect of alcohol intoxication on memory mechanisms was investigated, as well as how degree of intoxication and interview delay affected gist and detail elaboration in these witnesses' reports. Participants (n = 136) were randomized to an alcohol group (men: 0.8 g/kg, women: 0.75 g/kg) (n = 70) or a control group (n = 66), given juice. After consumption, they witnessed an intimate partner violence-scenario, and performed tasks assessing memory mechanisms. Half of the intoxicated and sober groups were interviewed immediately. The remaining participants were interviewed one week later. Inter alia, intoxication decreased total gist recall and elaboration capacity. In general, high intoxication (BAC = 0.08–0.15) made witnesses report fewer gist categories, and also to elaborate them less, but there were differences in gist/detail elaboration between levels of intoxication due to emotional context. Less reported information among intoxicated witnesses was caused both by omitting parts of the scenario and to less detailed elaboration. Emotional context influenced reporting among intoxicated witnesses on a gist and detail level. However, intoxication had less impact on gist/detail-elaboration than did a one week delay before interview, suggesting that witnesses should be interviewed immediately, despite intoxication.

Differential effects of alcohol on associative versus item memory.

Maylor, Elizabeth A., et al.

Applied Cognitive Psychology, Oct 29, 2018.

Abstract:

Summary Alcohol has detrimental effects on a range of cognitive processes, the most prominent being episodic memory. These deficits appear functionally similar to those observed within the normal aging population. We investigated whether an associative memory deficit, as found in older adults, would also be evident in young adults moderately intoxicated by alcohol. Participants were shown unrelated word pairs and then tested on both their item recognition (old/new item?) and associative recognition (intact/recombined pair?). Half the participants were under the influence of alcohol whereas the other half were sober. Alcohol impaired memory performance but significantly more so for associative than for item memory. Moreover, within the alcohol group, the associative memory deficit was significantly related to the amount of alcohol consumed. The findings suggest that not all aspects of episodic memory are equally impaired by alcohol, which may have practical implications for criminal investigations involving eye witnesses who have consumed alcohol.

Does alcohol loosen the tongue? Intoxicated individuals' willingness to report transgressions or criminal behavior carried out by themselves or others.

Mindthoff, Amelia, et al.

Applied Cognitive Psychology, Nov 21, 2018.

Abstract:

Summary Police commonly interview intoxicated suspects. This is concerning when suspects are innocent because intoxication often leads to a higher risk for impulsive decision making and reduces inhibition. However, the manner in which intoxication affects people's reporting of unethical or criminal actions carried out by themselves or others is unknown and was thus addressed in the current study. Participants (N = 116) were randomly assigned to one of six conditions based on a 2 (transgression: self, other) × 3 (alcohol condition: low-to-moderate intoxication, placebo, sober-control) between-participants design. After drinking their assigned beverages, participants were asked to disclose a transgression. No main effect of alcohol emerged. However, the odds that participants would report a transgression were significantly higher if they were asked to report a personal, rather than someone else's, transgression. Overall, low-to-moderate intoxication did not increase the likelihood of sensitive information disclosure in this initial study, but additional research is needed.

Anger and Memory

Effects of stress on memory (Wikipedia)

(Quit smirking – this is actually a good summary of the issues)

The effects of stress on memory include interference with a person's capacity to encode memory and the ability to retrieve information.[1][2] During times of stress, the body reacts by secreting stress hormones into the bloodstream. Stress can cause acute and chronic changes in certain brain areas which can cause long-term damage.[3] Over-secretion of stress hormones most frequently impairs memory, but in a few cases can enhance it. In particular, the hippocampus, prefrontal cortex and the amygdala are affected.[4][5] One class of stress hormone responsible for negatively affecting memory is the glucocorticoids (GCs), the most notable of which is cortisol.[1][5][6] Glucocorticoids facilitate and impair the actions of stress in the brain memory process.[7] Cortisol is a known biomarker for stress.[8] Under normal circumstances, the hippocampus regulates the production of cortisol through negative feedback because it has many receptors that are sensitive to these stress hormones. However, an excess of cortisol can impair the ability of the hippocampus to both encode and recall memories. [2] These stress hormones are also hindering the hippocampus from receiving enough energy by diverting glucose levels to surrounding muscles.[2]

Stress affects many memory functions and cognitive functioning of the brain.[9] There are different levels of stress and the high levels can be intrinsic or extrinsic. Intrinsic stress level is triggered by a cognitive challenge whereas extrinsic can be triggered by a condition not related to a cognitive task.[7]Intrinsic stress can be acutely and chronically experienced by a person.[7] The varying effects of stress on performance or stress hormones are often compared to or known as "inverted-u"[9] which induce areas in learning, memory and plasticity.[7] Chronic stress can affect the brain structure and cognition.

Studies considered the effects of stress on both intrinsic and extrinsic memory functions, using for both of them Pavlovian conditioning and spatial learning.[7] In regard to intrinsic memory functions, the study evaluated how stress affected memory functions that was triggered by a learning challenge. In regard to extrinsic stress, the study focused on stress that was not related to cognitive task but was elicited by other situations. The results determined that intrinsic stress was facilitated by memory consolidation process and extrinsic stress was determined to be heterogeneous in regard to memory consolidation. Researchers found that high stress conditions were a good representative of the effect that extrinsic stress can cause on memory functioning.[7] It was also proven that extrinsic stress does affect spatial learning whereas acute extrinsic stress does not.[7]

1. de Quervain et al., Stress and glucocorticoids impair retrieval of long-term spatial memory. Nature, 394, 787-790 (1998)
2. Kuhlmann, S.; Piel, M.; Wolf, O.T. (2005). *"Impaired Memory Retrieval after Psychosocial Stress in Healthy Young Men". Journal of Neuroscience.* ***25*** *(11): 2977–2982. doi:10.1523/jneurosci.5139-04.2005. PMID 15772357.*
3. Henckens, M. J. A. G.; Hermans, E. J.; Pu, Z.; Joels, M.; Fernandez, G. (12 August 2009). *"Stressed Memories: How Acute Stress Affects Memory Formation in Humans". Journal of Neuroscience.* ***29*** *(32): 10111–10119. doi:10.1523/JNEUROSCI.1184-09.2009. PMID 19675245.*
4. Sandi, Carmen; Pinelo-Nava, M. Teresa (1 January 2007). *"Stress and Memory: Behavioral Effects and Neurobiological Mechanisms". Neural Plasticity.* ***2007****: 1–20. doi:10.1155/2007/78970.*

Stress and glucocorticoids impair retrieval of long-term spatial memory.
de Quervain, Dominique J.-F., Roozendaal, Benno, McGaugh, James L.
Nature, Vol 394(6695), Aug, 1998. pp. 787-790.

Abstract:

Previous studies have focused exclusively on glucocorticoid effects on acquisition and long-term storage of newly acquired information. The present authors report that stress and glucocorticoids also affect memory retrieval. They show that rats have impaired performance in a water-maze spatial task after being given footshock 30 min before retention testing but are not impaired when footshock is given 2 min or 4 hrs before testing. These time-dependent effects on retention performance correspond to the circulating corticosterone levels at the time of testing, which suggests that the retention impairment is directly related to increased adrenocortical function. Supporting this idea is the finding that suppression of corticosterone synthesis with metyrapone blocks the stress-induced retention impairment. In addition, systemic corticosterone administered to non-stressed rats 30 min before retention testing induces dose-dependent retention impairment. The impairing effects of stress and glucocorticoids on retention are not due to disruption of spatial navigation per se. Results indicate that besides the well described effects of stress and glucocorticoids on acquisition and consolidation processes, glucocorticoids also affect memory retrieval mechanisms.

Impaired Memory Retrieval after Psychosocial Stress in Healthy Young Men.

Kuhlmann, Sabrina, Piel, Marcel, Wolf, Oliver T..

The Journal of Neuroscience, Vol 25(11), Mar, 2005. pp. 2977-2982.

Abstract:

Glucocorticoids (GCs) are known to modulate memory in animals and humans. One popular model suggests that stress or GC treatment enhances memoryconsolidation while impairing delayed memory retrieval. Studies in humans have documented that treatment with GCs impairs delayed memory retrieval. Similar alterations after exposure to stress have not been observed thus far. In the present study, 19 young healthy male subjects were exposed to either a standardized psychosocial laboratory stressor (Trier Social Stress Test) or a control condition in a crossover manner. After both treatments, retrieval of a word list (learned 24 h earlier) containing 10 neutral, 10 negative, and 10 positive words was tested. The stressor induced a significant increase in salivary free cortisol and a decrease in mood. Memory retrieval (free recall) was significantly impaired after the stress condition. Follow-up analysis revealed that negative and positive words (i.e., emotionally arousing words) were affected, whereas no effect was observed for neutral words. No changes were detected for cued recall, working memory, or attention. The present study thus demonstrates that psychosocial stress impairs memory retrieval in humans and suggests that emotionally arousing material is especially sensitive to this effect.

Stressed memories: How acute stress affects memory formation in humans.

Henckens, Marloes J. A. G., et. al.

The Journal of Neuroscience, Vol 29(32), Aug 12, 2009. pp. 10111-10119.

Abstract:

Stressful, aversive events are extremely well remembered. Such a declarative memory enhancement is evidently beneficial for survival, but the same mechanism may become maladaptive and culminate in mental diseases such as posttraumatic stress disorder (PTSD). Stress hormones are known to enhance postlearning consolidation of aversive memories but are also thought to have immediate effects on attentional, sensory, and mnemonic processes at memory formation. Despite their significance for our understanding of the etiology of stress-related mental disorders, effects of acute stress at memory formation, and their brain correlates at the system scale, remain elusive. Using an integrated experimental approach, we probed the neural correlates of memory formation while participants underwent a controlled stress induction procedure in a crossover design.

Physiological (cortisol level, heart rate, and pupil dilation) and subjective measures confirmed acute stress. Remarkably, reduced hippocampal activation during encoding predicted stress-enhanced memory performance, both within and between participants. Stress, moreover, amplified early visual and inferior temporal responses, suggesting that hypervigilant processing goes along with enhanced inferior temporal information reduction to relay a higher proportion of task-relevant information to the hippocampus. Thus, acute stress affects neural correlates of memory formation in an unexpected manner, the understanding of which may elucidate mechanisms underlying psychological trauma etiology.

Beyond general arousal: Effects of specific emotions on memory.
Levine, Linda J., Burgess, Stewart L.
Social Cognition, Vol 15(3), Fal 1997. pp. 157-181.
Abstract:

Examined the effects of happiness, anger, and sadness on participants' memory for different types of information in a narrative. Happiness and negative emotions were evoked in 263 undergraduates (aged 17–29 yrs) by randomly assigning grades of 'A' or 'D' on a surprise quiz. Immediately afterwards, Ss participated in what they believed to be an unrelated study during which they heard and recalled a narrative and described their emotional state. Ss in the positive emotion condition recalled more of the narrative as a whole than did Ss in the negative emotion condition. Analyses based on self-reported emotions indicated that happiness had a general facilitative effect on recall, whereas anger and sadness were associated with enhanced recall of information concerning goals and outcomes respectively. Findings indicate that specific emotions differ in their effects on memory and that negative emotions may facilitate selective encoding of functional information.

Emotion and episodic memory.
Allen, Philip A., et. al.
Handbook of episodic **memory**. Dere, Ekrem, (Ed); Easton, Alexander, (Ed); Nadel, Lynn, (Ed); Huston, Joseph P., (Ed); pp. 115-132; Amsterdam, Netherlands: Elsevier; 2008. xiii, 615 pp.
Abstract:

In the present chapter, we propose that emotion is an important contextual cue (or marker) for episodic memory. In past research and theory, temporal and spatial contexts have been discussed, but emotional context has been largely omitted from the literature on episodic memory. Based on the neural circuitry of incoming sensory information in the brain, we provide evidence that cognition is either moderated or mediated by basic affective processing. We review the evidence for a neural model in which the amygdala (affective processing—particularly negative emotions such as fear and anger), the ventromedial prefrontal cortex (emotional decision-making), and the dorsolateral prefrontal cortex (executive control and selective attention) are all involved in encoding and retrieval of episodic memory information. This view is largely based on an embellished version of Damasio and Bechara's somatic marker hypothesis with an evolutionary, survival emphasis. Finally, the research reviewed on episodic memory (mood induction, mood congruence, major depression, and the emotional mediation of age differences in episodic memory) is largely consistent with this view that emotions serve as contextual cues for episodic memories.

Intellect and False Confessions

- Autism and False Confessions
- False Confessions and Intellectual Disability

Autism and False Confessions

High functioning autism spectrum disorders: an investigation of psychological vulnerabilities during interrogative interview

Alice S. North , Ailsa J. Russell & Gisli H. Gudjonsson

Pages 323-334 | Received 01 Nov 2006, Accepted 01 Feb 2007, Published online: 29 Jul 2008

Abstract

Forensic psychologists and psychiatrists are commonly asked to ascertain the reliability of statements made by suspects to the police during questioning and to assess an individual's vulnerability to providing information which is inaccurate, unreliable, and misleading during police interview. Autism spectrum disorders (ASD) are characterised by qualitative impairments in social communication and interaction, and a restricted or repetitive pattern of behaviours, interests, and activities. It is not clear whether people with ASD are more vulnerable at interview, or more prone to respond negatively to interrogative pressure, when compared with the general population. In the present study, 26 individuals with high functioning ASD, and 27 gender- and IQ-matched controls, were compared on measures of interrogative suggestibility and compliance as well as on measures of anxiety, depression, the extent to which they feared negative evaluation by others, and whether they had a suspicious outlook. There were no significant between-group differences on the measures of suggestibility, but the group with ASD were rated as significantly more compliant than the controls in terms of both parental and self-report, and also had higher scores on measures of depression, anxiety, fear of negative social evaluation and paranoia. Bi-modal distribution of suggestibility scores within the ASD group indicates that individual characteristics should be taken into account when considering an assessment. Individuals with ASD may be more eager to please or to avoid conflict and confrontation than controls, and may be more prone to respond compliantly to requests and demands.

An evaluation of Miranda rights and interrogation in autism spectrum disorders

Lindsay M. Salseda, Dennis R. Dixon, Tracy Fass, Deborah Miora, Robert A. Leark,

Research in Autism Spectrum Disorders, Volume 5, Issue 1, 2011, Pages 79-85

Abstract

The primary deficits present in autism spectrum disorders (ASD) may lead to increased susceptibility to involvement in the criminal justice system. The same deficits may also cause individuals with ASD to be more vulnerable to interrogation techniques and other aspects of the legal system. Due to the increased level of vulnerability as well as impairments in social cognition, individuals with ASD may have difficulty understanding their legal rights, more specifically their Miranda rights. This review explores Miranda comprehension in general and how the specific deficits found in ASD may impact Miranda comprehension.

Brief report: Suggestibility, compliance and psychological traits in high-functioning adults with autism spectrum disorder.

Maras, Katie L., Bowler, Dermot M.

Research in Autism Spectrum Disorders, Vol 6(3), Jul-Sep, 2012. pp. 1168-1175.

Abstract:

Individuals with autism spectrum disorder (ASD) may be over-represented within the criminal justice system; it is therefore important to understand how they fare under police

questioning. The present study examined interrogative suggestibility and compliance in individuals with ASD, and whether this is associated with certain psychological traits. Adults with ASD and their typical counterparts completed the Gudjonsson Suggestibility Scales (GSS), Gudjonsson Compliance Scale (GCS), and measures of state-trait anxiety, self-esteem, fear of negative evaluation by others and paranoia. In contrast to previous research (North, Russell, & Gudjonsson, 2008), there was no difference between the ASD and comparison groups on the measure of compliance, and groups also did not differ on any of the GSS measures, despite the ASD group reporting significantly higher paranoia. Findings indicate that individuals with ASD may be no more likely to succumb to interrogative pressures than their typical counterparts.

A systematic review of people with autism spectrum disorder and the criminal justice system.

King, Claire, Murphy, Glynis H.

Journal of Autism and Developmental Disorders, Vol 44(11), Nov, 2014. pp. 2717-2733.

Abstract:

This paper provides a systemic review of the available literature on people with autism spectrum disorder (ASD) in the criminal justice system (CJS). The review considers two main types of study: those that examined the prevalence of people with ASD in the CJS and those that examined the prevalence of offending in populations with ASD. In addition, types of offences in people with ASD, co-morbid psychiatric diagnoses, and characteristics of people with ASD who commit offences (including predisposing factors) are considered. A combination of search terms was used in a variety of databases in order to find all of the available literature on this topic, and research studies were included based on specified inclusion and exclusion criteria. It was found that whilst there is an emerging literature base on this topic, there are a wide variety of methodologies used, making direct comparison difficult. Nevertheless it can be concluded so far that people with ASD do not seem to be disproportionately over-represented in the CJS, though they commit a range of crimes and seem to have a number of predisposing features. There is poor evidence of the presence of comorbid psychiatric diagnoses (except in mental health settings) amongst offenders with ASD, and little evidence of the oft-asserted over-representation of certain kinds of crimes. It is recommended that further research of good quality is required in this area, rather than studies that examine populations that are not representative of all those with ASD.

Autism spectrum disorder and sexual offending: Responsivity in forensic interventions.

Higgs, Tamsin; Carter, Adam J.

Aggression and Violent Behavior, Vol 22, May, 2015 pp. 112-119.

Abstract:

Research concerned with autism spectrum disorder (ASD) and criminality has grown in recent years. While having ASD does not increase risk of sexual offending behavior, an association has been recognized between ASD and sexually abusive behaviors. Despite this association, inadequacies in much of the criminal justice system to respond to the needs of this client group have been raised. A proportion of those people within the criminal justice system convicted of sexual offenses will have ASD. Given that group based interventions require participants to carry out introspection, sharing personal information and interacting in a group, all activities that an individual with ASD will invariably find challenging, efforts need to be made to develop interventions to work responsively, safely, appropriately and effectively with this client group to reduce risk of sexual recidivism. This review sets out to consider research on ASD and sexual offending in order to make practical recommendations on working responsively to raise the possibility of therapeutic

interventions being effective when engaging with this client group. The status of research on ASD both generally, as far as the scope of this review allows, and in relation to offending is discussed and practical guidance is offered.

Autism, sexual offending, and the criminal justice system

Melanie Clark Mogavero

Journal of Intellectual Disabilities and Offending Behaviour, Sept 2016, vol.7, no.32016, pp.116-126.

Abstract

Purpose – There has been growing concern among stakeholders about individuals with autism spectrum disorders (ASD) and sex offending as research supports an indirect association. The purpose of this paper is threefold: first, bring more awareness of the sexuality and deviant/criminal sexual behavior among those with ASD to stakeholders in the criminal justice system (CJS); second, demonstrate that much of the deviant or sexual offending behavior exhibited among those with ASD is often a manifestation of their ASD symptoms and not malice; and third, demonstrate the necessity to address specific needs of individuals with ASD who enter the CJS due to criminal sexual behavior.

Design/methodology/approach – This paper provides an overview of the ASD symptomology, including the diagnostic changes, a review of the literature on ASD and sexuality, which includes deviant sexual behavior and sexual offending.
Findings – The author linked examples of deviant or sexual behavior in the research literature to the ASD symptomology and described how the symptomology explains such behavior.

Originality/value – Sexual offending among those with ASD has received little research outside the mental health field. This review is of particular importance to those in the CJS unfamiliar with ASD, as they should handle them differently with regard to formal interviewing, measures of competency, capacity, and sentencing.

Compliance in autism: Self-report in action

Chandler, Robert ; Russell, Ailsa ; Maras, Katie.

Autism. 2018.

Abstract

Previous research indicates that autistic individuals are more likely to be bullied, and that they experience heightened anxiety and diminished self-esteem. These factors are known to predict heightened compliance, which is the tendency to agree with or carry out the requests and demands of others. This has a range of potentially serious consequences, particularly for an autistic person. This study utilised self-report (the Gudjonsson Compliance Scale) and behavioural measures of compliance (the door-in-the-face task) with 26 autistic and 26 typically developing adults. Participants also completed measures of early life bullying experiences, anxiety and self-esteem. Autistic participants were more compliant on both self-report and experimental tasks, and they reported more bullying experiences, higher anxiety and reduced self-esteem. Looking at both groups, bullying, anxiety and self-esteem were all correlated with self-reported compliance on the Gudjonsson Compliance Scale, yet only self-esteem was a unique predictor. None of these predictor variables related to behavioural compliance on the door in the face; nor did Gudjonsson Compliance Scale scores predict door-in-the-face performance, which may be better explained by situational and motivational factors. Findings have important implications for a range of real-life settings including requests made in the context of research, schools, the criminal justice system and the workplace.

Autism spectrum disorder and criminal responsibility: historical perspectives, clinical challenges and broader considerations within the criminal justice system

O'Sullivan, O. (2018). Irish Journal of Psychological Medicine, 35(4), 333-339.

Abstract

There has been relatively limited research focus on autism in the context of the criminal justice system. The relationship between autism spectrum disorder (ASD) and criminal responsibility is complex. Furthermore, the features inherent to ASD can have a significant bearing on a wide array of other issues in this context including police interviewing, fitness to be tried, culpability and the appropriateness of custodial disposal. This review explores the background to our understanding of ASD, patterns of offending behaviour and the nature of the relationship between this and characteristic ASD deficits. The clinical and legal challenges posed by ASD defendants in terms of identification, assessment and on a broader service level as they negotiate the criminal justice system are highlighted to illustrate the varied difficulties they may encounter and to draw attention to this field as a worthy area of research and training for the medical, legal and law enforcement professions.

The Risk of Making False Confessions: The Role of Developmental Disorders, Conduct Disorder, Psychiatric Symptoms, and Compliance

Gisli Hannes Gudjonsson, Rafael A. Gonzalez, Susan Young

First Published March 21, 2019 Research Article Find in PubMed

Abstract

Objective: To investigate salient predictors of self-reported false confessions. The conditions included mild intellectual disability (ID), autism spectrum disorder (ASD), ADHD, conduct disorder (CD), psychiatric symptoms, and compliance. Method: The sample consisted of 386 male Scottish prisoners, who completed a diagnostic ADHD interview, psychometric tests, and a questionnaire about false confessions they had given to police over their lifetime. Results: There was a high rate of reported false confessions (33.4%); the reason for the majority (62.2%) being to "cover up for somebody else." CD, ADHD, psychological distress and psychiatric symptoms, and compliance were all significant predictors of false confession. When examining the influence of underlying domains of ADHD, it was found that hyperactivity/impulsivity drove the association with false confession after adjusting for coexisting CD. Conclusion: CD and ADHD were the two most powerful predictors of false confessions, with CD mediating some of the effects of ADHD.

Suggestibility and false memories in relation to intellectual disability and autism spectrum disorder: a meta-analytic review

W. Griego J. N. Datzman S. M. Estrada S. S. Middlebrook

Journal of Intellectual Disability Research, Sep 3, 2019.

Abstract

Background

A systematic literature review was conducted to evaluate previous research that examined intellectual disability (ID) or autism spectrum disorder (ASD) in relation to memory distortions (i.e. suggestibility and false memories). There were two goals for the current study; the first goal was to identify significant trends in past literature that fulfilled previously established selection criteria. The second goal was to establish reliability and effect sizes for suggestibility and false memory for samples with diagnoses of ID or ASD.

Methods and Procedures

Articles that were selected for inclusion in the current study were required to have a clinically diagnosed sample, as well as a non-clinical control group. Studies were also required to have a post-hoc power score higher than .30 to prevent the effects of underpowered studies and limit the potential for publication bias. Selected studies were also required to have provided pertinent information required to complete the analyses (e.g. means, standard deviations, p-values, or correlation coefficients). Any study that did not provide the required information was excluded.

Results and Conclusions

Two empirical Bayes omnibus analyses revealed a significant effect for participants diagnosed with ID ($z = 6.10$, $p < .001$), which supported the researchers' hypothesis. The results indicated increased susceptibility toward memory suggestibility and false memories when compared with the general population. However, the results of the analyses did not support the researchers' hypothesis regarding participants diagnosed with ASD. The analyses indicated that participants diagnosed with ASD displayed decreased suggestibility and were less likely to develop false memories ($z = -2.37$, $p = 0.018$).

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.

Suggestibility

The impact of interrogation stress on compliance and suggestibility in U.S. military special operations personnel

L'impact du stress de l'interrogation sur la conformité et la suggestibilité du personnel des opérations spéciales militaires des États-Unis

C.A.Morgan III, J.Dule, Y.G.Rabinowitz

Ethics, Medicine and Public Health, Volume 14, July–September 2020

Abstract:

The present study was performed to test whether acute stress exposure would significantly increase human compliance and suggestibility. One hundred active-duty military participants enrolled in military survival school training were randomized to receive the Gudjonsson Compliance and Suggestibility Scales (GCS and GSS) prior to, during or after exposure to interrogation stress. All participants were also assessed prior to, and after stress exposure for symptoms of dissociation. Stress exposure significantly increased compliance in individuals who exhibited a pre-stress propensity to dissociation; stress exposure significantly increased suggestibility. These data support the view that some individuals are more likely than others to experiencing an increase in compliance and in suggestibility if exposed to interrogation stress. These data also suggest that individuals who are vulnerable to stress induced increases in suggestibility and compliance can be identified using psychological measures of dissociation.

Compliance in an interrogative situation: A new scale.

Gudjonsson, Gisli H.

Personality and Individual Differences, Vol 10(5), 1989. pp. 535-540.

Abstract:

Describes the development of a compliance questionnaire intended to complement the author's previous work (G. H. Gudjonsson, 1984) on interrogative suggestibility. The questionnaire consists of 20 true–false statements that have applications to interrogative situations involving retracted confession statements. The questionnaire has satisfactory internal consistency and test–retest reliability, based on data from 9 groups of Ss, ranging from criminal suspects, convicted offenders, soldiers, and nurses to college students and university academic staff. Data are presented to support the concurrent and construct validity of the questionnaire.

One hundred alleged false confession cases: Some normative data.

Gudjonsson, Gisli H.

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 dependent personality: Developmental, social, and clinical perspectives.

Bornstein, Robert F.. Gettysburg Coll, PA, US

Psychological Bulletin, Vol 112(1), Jul, 1992. pp. 3-23.

Abstract:

Developmental, social, and clinical studies of dependency have produced remarkably consistent results. A review and integration of these findings allow strong conclusions to

be drawn regarding the etiology and dynamics of dependency. The etiology of dependency appears to lie in overprotective, authoritarian parenting. In social settings, dependency is associated with suggestibility, conformity, compliance, interpersonal yielding, affiliative behavior, and sensitivity to interpersonal cues. Dependency predicts the onset of certain psychological disorders and follows the onset of others. It seems that the fundamental motivation of the dependent person, from which the behaviors that are exhibited in different situations are derived, is a strong desire to obtain and maintain nurturant supportive relationships. Implications of these findings for different theoretical models of dependency are discussed.

Authors:
Talmadge, Stephen A.
Military Psychology, Vol 13(4), 2001. pp. 235-241.
Abstract:

Presents a case study wherein a psychologist analyzes a defendant and his legal case. The evaluation in this case study included a clinical interview and an administration and interpretation of the Millon Clinical Multiaxial Inventory-III test, the Minnesota Multiphasic Personality Inventory-2 test, the Gudjonsson Suggestibility Scale and Compliance Scale, and the Self-Monitoring Scale. Results of the defendant's interrogation and his psychological testing profiles are presented, which suggest a situation that was not extremely coercive but in which a cooperative defendant may have confessed because of tacit pressure. In the end the accused was acquitted. Audiotaping or videotaping and more research on this subject are recommended.

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

The role of suggestibility in determinations of Miranda abilities: A study of the Gudjonsson Suggestibility Scales.

Rogers, Richard, et.al.
Law and Human Behavior, Vol 34(1), Feb, 2010. pp. 66-78.
Abstract:

Traditionally, high levels of suggestibility have been widely assumed to be linked with diminished Miranda abilities, especially in relationship to the voluntariness of waivers. The current investigation examined suggestibility on the Gudjonsson Suggestibility Scales in a multisite study of pretrial defendants. One important finding was the inapplicability of British norms to American jurisdictions. Moreover, suggestibility appeared unrelated to Miranda comprehension, reasoning, and detainees' perceptions of police coercion. In testing rival hypotheses, defendants with high compliance had significantly lower Miranda comprehension and ability to reason about exercising Miranda rights than their counterparts with low compliance. Implications of these findings to forensic practice are examined.

Personality and deception. Are suggestibility, compliance and acquiescence related to socially desirable responding?
Gudjonsson, Gisli H., et.al.
Personality and Individual Differences, Vol 50(2), Jan, 2011. pp. 192-195.
Abstract:

The concepts and measurement of suggestibility, compliance and acquiescence are important to the forensic assessment of victims, witnesses and suspects in relation to the 'reliability of testimony'. In this paper the relationship of these three measures to socially desirable responding is investigated. 102 participants completed the Wechsler Abbreviated Scale of Intelligence (WASI), the Gudjonsson Suggestibility (GSS 2) and Compliance (GCS) Scales, a test of acquiescence, and a measure of 'impression management' (IM) and 'self deception enhancement' (SDE) using the Paulhus Deception Scales. As predicted, neither IM nor SDE correlated significantly with suggestibility, compliance, acquiescence, or IQ. Factor analysis showed that the two deception measures loaded on a separate factor to the other measures. A significant relationship was found between compliance and acquiescence, but multiple regression analysis showed that this was largely mediated by IQ. The findings show that neither GSS 2 nor the GCS are significantly related to socially desirable responding, either in terms of 'impression management' or 'self deception enhancement'

Memory conformity and suggestibility.
Thorley, Craig.
Psychology, Crime & Law, Vol 19(7), Aug, 2013. pp. 565-575.
Abstract:

The present study examined whether the degree to which participants engage in memory conformity, which occurs when a person alters their memory report of an event to be consistent with another person, can be predicted by their levels of interrogative suggestibility (IS), which is the degree to which people are susceptible to altering their memory reports during questioning. Memory conformity was introduced by having participant and confederate pairs study words and then complete a social recognition test where they took turns to make judgements to the same items. When the participants responded after the confederate, they tended to conform to confederate's judgements regardless of whether the confederate had made a correct or incorrect response. IS was measured using the Gudjonsson Suggestibility Scale 2. This scale allows separate measures of Yield, which is a measure of how susceptible people are to altering their memory reports of events as a result of leading questions, and Shift, which is a measure of how susceptible people are to changing responses to questions when placed under pressure to do so. Only

Yield was a significant predictor of memory conformity (PsycINFO Database Record (c) 2016 APA, all rights reserved)

Interrogative suggestibility: Was it just compliance or a genuine false memory?
Mastroberardino, Serena and Marucci, Francesco S.
Legal and Criminological Psychology, Vol 18(2), Sep, 2013. pp. 274-286.
Abstract:

Purpose: Interrogative suggestibility, as measured by the Gudjonsson Suggestibility Scales (GSS), is an independent form of suggestibility arising in the forensic/legal context. So far, an unresolved issue that may have different implications when measuring suggestibility is to what extent the scales measure internalization of suggested materials or just compliance with the interrogator. Methods: Internalization of suggested materials and compliance were here measured using a source identification task. In Experiment 1, participants were administered the GSS2 and immediately afterwards asked to perform the source identification task on the items presented in the scale. In Experiment 2, half of the participants were administered the source identification task immediately and half after a 24-hr delay. Results: In both experiments a higher proportion of compliant responses were found. Participants internalized more suggested information after questioning (Yield 1) and made more compliant responses after negative feedback (Shift). In Experiment 2, participants in the delayed condition internalized less material than those in the immediate condition. Conclusions: Different processes appear to underlie Yield 1 and Shift scores in the GSS2. The former may include both internalization of suggested materials and compliance, while the second appears to be mostly due to compliance with the interrogator. When administering the GSS2 in a forensic/legal context as vulnerability predictor for making false confessions, or proneness to develop false memories through the internalization of suggested material, including a source identification task may provide additional information on the type of coping style and memory characteristics of the examinee.

The role of memory distrust in cases of internalised false confession.
Gudjonsson, Gisli Hannes, et.al.
Applied Cognitive Psychology, Vol 28(3), May-Jun, 2014. pp. 336-348.
Abstract:

This paper reviews the literature on the role of 'memory distrust' in cases of internalised false confessions and provides a heuristic model for understanding the antecedents and mechanism involved. It also provides an in-depth analysis of two real life cases of 'suspected' murders involving six convicted persons, five of whom showed evidence of profound memory distrust regarding the alleged offences. The key factors were coercive interviewing, lengthy solitary confinement, contamination, psychological vulnerabilities (both state and trait) and lack of independent support during questioning. The vulnerabilities in such cases typically involve a combination of cognitive (memory flaws, lack of confidence in memory and failure to invoke distinctiveness heuristic), personality (suggestibility and compliance), health problems and motivational (desire and willingness to assist the police) factors. The two cases suggest that the process of internalised false confessions may be conceptualised in terms of five sequential steps: a trigger, plausibility, acceptance, reconstruction and resolution.

The immediate and delayed suggestibility examined by the online version of the Gudjonsson Suggestibility Scale 2.
Wachi, Taeko, et.al.
Personality and Individual Differences, Vol 146, Aug 1, 2019. pp. 20-25.
Abstract:

This study examined immediate and delayed suggestibility using the Japanese online version of the Gudjonsson Suggestibility Scale 2. The results demonstrated that as many as 20% of the 218 participants incorporated misleading information into their memories of events (indicating delayed suggestibility) two days after listening to a story. Those with delayed suggestibility were more likely to have high scores for Yield 1, Yield 2, Shift, and Total suggestibility (i.e., immediate suggestibility), indicating an association between immediate and delayed suggestibility. These participants were also deemed to have the same levels of self-esteem and compliance as those without delayed suggestibility. However, they were more likely to exhibit source monitoring errors than their counterparts, suggesting that such errors (rather than psychosocial factors) may cause delayed suggestibility.

Gudjonsson Suggestibility Scales

Gisli Gudjonsson developed the GSS in order to measure, subtly yet objectively, the construct of interrogative suggestibility. Interrogative suggestibility is the extent to which an individual comes to accept messages or information communicated during formal questioning, essentially coming to believe the information presented as true. As measured by the Yield and Shift scores, information is obtained about the degree to which an individual yields to leading or misleading questions and gives in to negative feedback or pressure.

In addition to use for research, the GSS was developed for clinical use, such as assessing the psychological vulnerability of a defendant or witness to yielding to leading questions and to shifting from one response, right or wrong, to a different response, under pressure. This use has applications in providing data to the court regarding an individual's susceptibility to providing false information during police questioning, which is highly relevant when the trier of fact is assessing the validity of a confession or witness statements. The measure also has applications when a court is determining the voluntariness of a confession or Miranda rights waiver.

Mental Measurements Yearbook Review of the Gudjonsson Suggestibility Scales

DESCRIPTION. The Gudjonsson Suggestibility Scale (GSS1) and its parallel form (GSS2) were designed to provide professionals with a concise and self-contained test of interrogative suggestibility and verbal recall for use in research, forensic, and clinical applications. Although originally developed for use in forensic contexts, the GSS scales may be valuable tools in any interview setting. Interrogative suggestibility is defined in the GSS manual with a quote from an earlier article as: "the extent to which, within a closed social interaction, people come to accept messages communicated during formal questioning" (Gudjonsson & Clark, 1986, p. 84). Research using early measures of the GSS (Gudjonsson, 1984) has identified two critical components of suggestibility: Yield (tendency to give in to leading questions) and Shift (tendency to shift responses due to interpersonal pressure), and the GSS1 and GSS2 have been designed to measure both components. In addition to interrogative suggestibility measures, the GSS1 and GSS2 provide objective measures of response distortions and fabrications (the two components associated with confabulation), as well as measures of immediate and delayed verbal recall. To complement the information provided by the GSS1 and GSS2, the Gudjonsson Compliance Scale (GCS), a 20-item, self-report measure of compliance using a true/false format is also provided.

The GSS1 and GSS2 are designed to be presented to the test taker as a test of verbal recall. In each version of the GSS, a brief story is presented. It may be either read by the examiner or presented using the audiotape provided with the test package. Immediate and delayed (usually after 50 minutes) recall is measured verbatim, and 20 questions relating to the story are given. Following negative feedback, the 20 questions are re-administered to score for Yield and Shift measures. The test manual provides comprehensive instructions for scoring suggestibility, recall, and confabulation measures. The GCS can be administered either using the printed test sheet or read to the subject if literacy problems prevent standard administration. Scoring the GCS is done using the provided scoring key. The test author gives specific cautions concerning the use of the GCS for individuals whose IQ falls below 70 or who might have difficulty understanding the test items.

For the purpose of interpretation, normative data are provided for adult, adolescent, and forensic populations. GSS norms are also provided for use with persons suffering from intellectual disabilities. The test author specifically notes that the GSS1, GSS2, and GCS represent only one component in a comprehensive forensic assessment and cannot be used exclusively to make conclusions about witness validity.

DEVELOPMENT. Although the formats of the GSS1 and GSS2 are identical with respect to administration and scoring criteria, the nature of the narrative paragraphs and corresponding

interrogative questions differ in specific content with the GSS1 story having a forensic context (a robbery) whereas the GSS2 story has a nonforensic content (a couple saving a boy from an accident). The GSS2 was developed to provide a nonforensic narrative to complement the forensic objectives of the GSS1.

The GCS was originally developed using 28 true/false items selected to measure compliance in an interrogation setting. The original 28 GCS items were administered to a sample of 164 subjects and factor-analyzed to identify 20 items with a high loading on the compliance factor (the manual presents the loadings for the final 20 GCS items). The GCS is presented in two forms: Form D as the standard administration and Form E for use as part of the interview process.

TECHNICAL. Information on the normative samples and the standardization process is provided in the GSS user's manual. Normative data were collected using samples from a variety of different clinical populations from various studies over the years. Information on the sample demographics for the normative and clinical samples are given, and statistics are provided for adults, juvenile offenders, forensic populations, and intellectually disabled offenders. Separate norms for male and female respondents are not provided. Percentile rankings are provided for most of the norms. Analyses of the role of age, forensic status, and clinical diagnosis in test responding are also described.

Interscorer reliability analyses for the GSS1 and GSS2 are provided with coefficients falling in the .95-.99 range for measures of verbal recall and suggestibility with slightly lower results for measures of confabulation (.72-.80 range). Due to the format of the scales, test-retest reliability coefficients are not provided for the GSS1 and GSS2 although "temporal consistency" involving correlations of scores for respondents who had completed both the GSS1 and GSS2 are provided. All correlations are highly significant with correlations for Shift being consistently lower for Yield 1 than Yield 2. Coefficient alpha reliabilities appear to be slightly higher for the GSS2 than the GSS1. Test-retest reliability data for the GCS are provided for a sample of hospitalized forensic patients over a 1- to 3-month time interval (.88 between the two time periods). Standard error of measurement scores for each of the GSS subscales are provided, determined by the relationship between the GSS1 and GSS2 scores when both scales are administered. Given the parallel nature of the GSS measures, the length of time between administrations of both tests has been found to impact on the variability of the scores with longer intervals between test sessions being more appropriate in forensic contexts.

The test manual provides a series of validation studies although the test author also refers readers to the author's comprehensive review of validation studies of the GSS1 and GSS2 (Gudjonsson, 1992).

Factor-analytic studies of the Yield and Shift items of both tests have found strong correspondence to the two-factor model on which the tests were based. Changes in scoring procedures have yielded stronger item loadings and have been incorporated into the current test and norms. Factor analysis of the GCS items has yielded a three-factor model reflecting avoidance of confrontation, eagerness to please, and general compliance.

Suggestibility as measured by the GSS has been linked to a number of cognitive variables in the hypothesized direction for adults, children, and adolescents. The effects of avoidant coping strategies, anxiety, and poor assertiveness have also been found to correlate significantly with Yield and Shift suggestibility scores. Other factors such as sleep deprivation, intellectual disabilities, mental illness, and the role that they play in susceptibility to leading questions are also discussed.

Research assessing the predictive validity of the GSS1 and GSS2 has identified a strong negative correlation between measures of Shift and Yield and interrogative experience. GSS1 suggestibility measures have also been found to relate to level of accuracy in police interviews. Despite the problematic nature of research into "false confessions," research using the GSS1 has identified a linear relationship differentiating "false confessors," "resisters" (respondents denying their involvement in crimes of which they were accused), and forensic patients. False confessors were also found to score more highly on the GCS than other prisoners in a prison sample.

Although confabulation measures were found to be less reliable than suggestibility measures, validation studies have suggested that personality factors may play a greater role than psychiatric diagnosis. Overall, the studies cited and the validation process meets the psychometric standards for test validation as specified in the Standards for Educational and Psychological Testing (AERA, APA, & NCME, 1999).

COMMENTARY. The increasing use of psychological testimony to investigate issues of suggestibility in obtaining confessions has resulted in the Gudjonsson scales being used in research and forensic settings in countries around the world as well as becoming the focus of an impressive body of research into interrogative suggestibility and compliance.

There continues to be a need for the collection of normative data in the U.S. and in other countries to counterbalance the predominantly U.K.-based norms compiled to date. As well, further research is required to validate the confabulation measures and to investigate the role of cultural influences in interrogative suggestibility and the applicability of the GSS1 and GSS2 with pre-adolescent populations. Another line of investigation should focus on the vulnerability of the Gudjonsson scales to the effects of malingering given its increasing usage in criminal cases and the possibility of "coaching" designed to provide the appearance of suggestibility.

Despite these concerns, the Gudjonsson scales are well-designed and well-validated and can be viewed as a valuable addition to the clinical tools that forensic psychologists can draw upon.

SUMMARY. The GSS1, GSS2, and GCS are well-developed instruments based on extensive research into suggestibility, compliance, and confabulation. They are designed to provide professionals with concise measures of interrogative suggestibility, verbal recall, and compliance for use in research, forensic, and clinical applications. The parallel format provides needed flexibility to accommodate client needs and to address forensic and nonforensic applications across clinical populations. Guidelines and scoring examples are provided to enable consistent interpretation of test results. The test manual outlines the development and validation of the GSS1, GSS2, and GCS and their use to identify potential problems in witness testimony based on numerous research studies that are cited in the bibliography.

REVIEWER'S REFERENCES

- American Educational Research Association, American Psychological Association, & National Council on Measurement in Education. (1999). Standards for educational and psychological testing. Washington, DC: American Educational Research Association.
- Gudjonsson, G. H. (1984). A new scale of interrogative suggestibility. Personality and Individual Differences, 5(3), 303-314.
- Gudjonsson, G. H. (1992). The psychology of interrogations, confessions, and testimony. Chichester, England: John Wiley & Sons.
- Gudjonsson, G. H., & Clark, N. K. (1986). Suggestibility in police interrogation: A social psychological model. Social Behaviour, 1, 83-104.

Research on the Gudjonsson Suggestibility Scales

Interrogative suggestibility and its relationship with personality, perceptual defensiveness and extraordinary beliefs.
Haraldsson, Erlendur. U Iceland, Reykjavík
Personality and Individual Differences, Vol 6(6), 1985. pp. 765-767.
Abstract:

14 female and 65 male undergraduates completed the Eysenck Personality Questionnaire (EPQ), the Defense Mechanism Technique, an Icelandic translation of G. H. Gudjonsson's (see record 1985-11147-001) Suggestibility Scale (GSS), and a paranormal belief measure. Suggestibility was found to correlate significantly with the Lie scale of the EPQ, the degree of perceptual defensiveness, and belief in witchcraft, spiritualism, and precognition. The GSS scores were consistent with norms for the British GSS, suggesting that the GSS can be used cross-culturally.

The relationship between interrogative suggestibility and acquiescence: Empirical findings and theoretical implications.
Gudjonsson, Gisli H.. Bethlem Royal Hosp, Beckenham, England
Personality and Individual Differences, Vol 7(2), 1986. pp. 195-199.
Abstract:

Investigated the relationship between interrogative suggestibility, as measured by G. H. Gudjonsson's (see record 1985-11147-001) suggestibility scale (GSS), and acquiescence (i.e., the tendency to agree with questionnaire statements regardless of content). 30 males (mean age 22 yrs) completed the GSS and 2 tests of acquiescence. Acquiescence was found to correlate positively with suggestibility, particularly after negative feedback had been applied during the interrogation. It is suggested that uncertainty and self-concept evaluations are relevant to suggestibility and acquiescence.

One hundred alleged false confession cases: Some normative data.
Gudjonsson, Gisli H.. U London, Inst of Psychiatry, England
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.

Interrogative suggestibility: Factor analysis of the Gudjonsson Suggestibility Scale (GSS 2).
Gudjonsson, Gisli H.. U London Inst of Psychiatry, England
Personality and Individual Differences, Vol 13(4), Apr, 1992. pp. 479-481.
Abstract:

Factor analyzed and rotated the 20 'Yield' and 20 'Shift' items on the parallel form (G. H. Gudjonsson; see record 1988-03213-001) of the GudjonssonSuggestibility Scale for 100 forensic male patients and 29 normal male adult controls. As in the case of the original scale (Gudjonsson; see record 1985-11147-001), the 'Yield' and 'Shift' items loaded on separate factors, supporting the view that at least 2 types of interrogative suggestibility exist. The internal consistency for the 'Yield 1,' 'Yield 2,' and 'Shift' subscales were 0.87, 0.90, and 0.79, respectively.

The inter-rater reliability of the Gudjonsson Suggestibility Scale.
Richardson, Graeme., Smith, Paul
Personality and Individual Differences, Vol 14(1), Jan, 1993. pp. 251-253.
Abstract:

Examined the interrater reliability of the Gudjonsson Suggestibility Scale(GSS1) of G. H. Gudjonsson (see record 1985-11147-001). Data from 57 young people (aged 10.9–17.6 yrs) exhibiting disturbed and disordered behavior show the interrater reliability of the GSS1 to be very high. Rater difficulties in applying GSS1 scoring criteria are identified.

The inter-rater reliability of the Gudjonsson Suggestibility Scale (Form 2).
Clare, Isabel C. H., Gudjonsson, Gisli H., Rutter, Susan C., Cross, Philippa
British Journal of Clinical Psychology, Vol 33(3), Sep, 1994. pp. 357-365.
Abstract:

Assessed the interrater reliability of Form 2 of the Gudjonsson Suggestibility Scale (G. H. Gudjonsson; see record 1988-03213-001). 101 individuals (aged 17–69 yrs) with different levels of intelligence completed Form 2 of the scale to provide data on memory, suggestibility, and confabulation. Three raters scored the data from each S independently. The intra-class correlation coefficients for all memory and suggestibility measures were both very high and highly significant, thus indicating a high level of inter-rater reliability. In contrast, the correlations for confabulation on immediate and delayed recall were much lower. Guidelines are provided to refine scoring of memory and suggestibility and to clarify the definition of confabulation.

The relationship of confabulation to the memory, intelligence, suggestibility and personality of prison inmates.
Gudjonsson, Gisli H., Sigurdsson, Jon F.
Applied Cognitive Psychology, Vol 10(1), Feb, 1996. pp. 85-92.
Abstract:

Explored the relationship of confabulation (CFB) to memory, intelligence, suggestibility, and personality, as measured by the Eysenck Personality Questionnaire and the Gough Socialisation Scale. Ss were 255 Icelandic prison inmates (mean age 30 yrs). CFB was measured from the memory narrative of the Gudjonsson Suggestibility Scale (GSS). The 2 components of CFB (distortions and fabrications) were scored and analyzed separately. Distortions and fabrications correlated poorly with each other, and CFB scores correlated very poorly with the other psychological variables. The only positive correlations were a positive relationship with GSS shift and a negative relationship with intelligence.

The Gudjonsson Suggestibility Scale (GSS): Further data on its reliability, validity, and metacognition correlates.
Merckelbach, Harald., Muris, Peter, Wessel, Ineke, van Koppen, Peter J.
Social Behavior and Personality: An International Journal, Vol 26(2), 1998. pp. 203-210.
Abstract:

Presents 2 studies in which the psychometric properties and validity of the Gudjonsson Suggestibility Scale (GSS; G. H. Gudjonsson, 1984) were investigated. In study 1, 40 18–26-yr-old undergraduates completed the GSS. Results indicate that the GSS has reasonable internal consistency. Additionally, a modest, but significant test–retest stability was found for the GSS. In study 2, 53 18–27-yr-old undergraduates saw a slide series and were then confronted with leading questions about the critical (emotional) slide. In addition, they completed the Yield scale of the GSS. A small but significant correlation was found between Ss' Yield scores on the GSS and their susceptibility to leading questions about the slide series. Findings suggest that the GSS is a promising instrument for measuring interrogative suggestibility.

Interrogative suggestibility: The role of interviewer behaviour.
Bain, Stella A., Baxter, James S.
Legal and Criminological Psychology, Vol 5(Part 1), Feb, 2000. pp. 123-133.
Abstract:

Assessed the effect of 2 interviewer styles on measures of interrogative suggestibility obtained using the first of the Gudjonsson Suggestibility Scales(GSS1). It was hypothesized that a generally abrupt demeanor adopted by the interviewer would produce greater psychological distance, and therefore higher GSS1 scores, than a friendly demeanor. The study had a single factor between participants design. 55 participants (aged 17–74 yrs) were tested on the GSS1 by an interviewer whose behavior was either friendly or abrupt. Two of the GSS1 measures appeared to be biased significantly by interviewer style. Participants tested in the abrupt condition gained higher scores for Shift and Total Suggestibility than those in the friendly condition. These results are consistent with the view that the GSS1 provides measures of 2 different types of suggestibility. However, this finding may also mean that while initial responses to leading questions are mediated by more stable cognitive factors that are relatively unaffected by interviewer demeanor, post-feedback scores may be more sensitive to the social aspects of suggestibility.

Minimizing interrogative suggestibility.
Boon, Julian C. W., Baxter, James S.
Legal and Criminological Psychology, Vol 5(Part2), Sep, 2000. pp. 273-284.
Abstract:

Use of warnings about the possible presence of misinformation in questions put to witnesses can reduce the extent to which such misinformation is incorporated in witnesses' recall. Previous studies of this phenomenon, known as 'interrogative suggestibility', have not, however, attempted to establish the degree to which it can be reduced in this way. The present study used the Gudjonsson Suggestibility Scale 2 (GSS-2) in an attempt to make this relative judgment, based on population norms established for the scale. 60 undergraduates (aged 18–33 yrs) were allocated to 1 of 3 groups: (1) a Warned Group underwent the GSS-2 without negative feedback but also with a warning concerning the possible presence of misinformation in questions; (2) a Neutral,Group underwent a variant of the GSS-2 in which negative feedback was not administered; and (3) a Standard Group underwent the normal GSS-2 procedure. The hypothesized pattern of results—that the provision of a warning would enhance the ability of participants to resist misinformation without completely eliminating its acceptance—was confirmed.

Possible false confession in a military court-martial: A case study.
Talmadge, Stephen A.. US Navy, Medical Service Corps, Twentynine Palms, CA, US
Military Psychology, Vol 13(4), 2001. pp. 235-241.
Abstract:

Presents a case study wherein a psychologist analyzes a defendant and his legal case. The evaluation in this case study included a clinical interview and an administration and interpretation of the Millon Clinical Multiaxial Inventory-III test, the Minnesota Multiphasic Personality Inventory-2 test, the Gudjonsson Suggestibility Scale and Compliance Scale, and the Self-Monitoring Scale. Results of the defendant's interrogation and his psychological testing profiles are presented, which suggest a situation that was not extremely coercive but in which a cooperative defendant may have confessed because of tacit pressure. In the end the accused was acquitted. Audiotaping or videotaping and more research on this subject are recommended.

Faking interrogative suggestibility: The truth machine.
Baxter, James S., Bain, Stella A.
Legal and Criminological Psychology, Vol 7(2), Sep, 2002. pp. 219-225.
Abstract:

Investigated possible indicators of malingering or 'faking bad' on the Gudjonsson Suggestibility Scales (GSS). It was hypothesized that participants (Ss) who were issued with a set of instructions that primed them to appear gullible and susceptible to pressure would exhibit a unique pattern of scores on the scales that would differentiate them from both normal adults and genuinely vulnerable populations. The study had a single factor between participants design. Ss were tested in either one of two conditions: standard or faking. 42 Ss (aged 18-57 yrs) took part in the study. Ss were a mix of undergraduates, postgraduate students, and professionals. Only Yield 1 scores were found to be significantly different between the two conditions. Ss in the faking condition gained higher scores on this measure on both the GSS 1 and GSS 2. Results indicate that whilst fakers may identify the need to yield to leading questions as a strategy for faking interrogative suggestibility, they do not identify the need to make shifts in their responses. An elevated Yield 1 score in the absence of any other raised scores on the scales may therefore be indicative of faking bad on the Gudjonsson Suggestibility Scales.

Suggestibility and confessions.
Trowbridge, Brett C.
American Journal of Forensic Psychology, Vol 21(1), 2003. pp. 5-23.
Abstract:

False confessions do occur and can cause people to be wrongfully convicted; various types of false confessions are discussed. Research shows trickery by interrogators can lead to large numbers of false confessions even among high-functioning subjects. The Gudjonsson Suggestibility Scales (GSS) are used to determine how suggestible subjects are in response to leading questions and/or negative feedback. Research with the GSS shows that adolescents, those with low IQs and those who are acquiescent or anxious are especially suggestible. Suggestions are made as to how to evaluate defendants who have retracted confessions, and are now claiming they made false confessions.

Interrogative suggestibility: interactions between interviewees' self-esteem and interviewer style.
Baxter, James S., Bain, Stella A.
Personality and Individual Differences, Vol 35(6), Oct, 2003. pp. 1285-1292.
Abstract:

Levels of self-esteem may interact with influences on interrogative suggestibility identified by Baxter and Boon (2000) and Bain and Baxter (2000). The aim of the present study was to assess the impact of variations in interviewer manner on scores obtained on the Gudjonsson Suggestibility Scales GSS 1 (Gudjonsson, 1984) from participants with high and low levels of self-esteem. The study had a two-factor between-participants design. Equal numbers of participants with high and low self-esteem were tested on the GSS 1 by an interviewer whose behaviour was either 'Abrupt' or 'Friendly'. Results showed a main effect for self-esteem with high levels being associated with reduced suggestibility and low levels associated with increased esteem suggestibility. No significant main effect was found for condition: overall responses were not significantly different between Friendly and Abrupt conditions. However, a significant interaction was observed. High self-esteem participants demonstrated reduced suggestibility from Friendly to Abrupt condition, whereas low self-esteem participants' scores increased from Friendly to Abrupt.

Minimizing extraneous, interviewer-based interrogative suggestibility.
Boon, Julian C. W., Baxter, James S.
Legal and Criminological Psychology, Vol 9(2), Sep, 2004. pp. 229-238.
Abstract:

Objectives: Previous work has established that interviewer demeanour can distort interviewee performance on the Gudjonsson Suggestibility Scales (GSS). The present study assesses the effect of reducing interpersonal interaction in the GSS procedure. Interviewees' interrogative suggestibility (IS) scores obtained under four conditions were compared with established norms for the scales to identify the method most likely to reduce the effects of interpersonal factors when using the scales. Method: Participants were allocated at random to one of four conditions: (1) standard procedure but with questions in writing (Written Questions), (2) condition 1 procedure plus written answer (Written Questions: Written Answers), (3) condition 1 procedure but with written negative feedback (Written Questions: Written Feedback), and finally (4) condition 2 procedure but with written negative feedback (Written Questions: Written Answers: Written Feedback). Results: A key finding was that the procedure used in condition 4, in which verbal contact between interviewer and interviewee was least, produced GSS scores most closely approximating established norms for the GSS. GSS scores were higher in the other groups, although the differences between the GSS scores of conditions 4 and 2 were not significant. Conclusion: The findings suggest ways in which the effects of interviewer demeanour on IS may be reduced. The potential usefulness of adopting new procedures for administering the GSSs is discussed, as is the potential for developing a computerized format for the GSSs.

Interacting influences on interrogative suggestibility.
Bain, Stella A., Baxter, James S., Fellowes, Vivienne.
Legal and Criminological Psychology, Vol 9(2), Sep, 2004. pp. 239-252.
Abstract:

Purpose: Research using the Gudjonsson Suggestibility Scales (GSS) has found interrogative suggestibility (IS) to vary as a function of the overall demeanour of the interviewer, warnings about the presence of misleading information, and the self-esteem of the interviewee, as outlined by Gudjonssonand Clark (1986). The present study attempted to assess how these factors interact. Method: The study had a three-factor between-participants design: interviewer demeanour × instructional manipulation × self-esteem. One hundred and twenty undergraduates took part in the study. Results: Participants reporting lower self-esteem scored higher on the GSS 'Shift' measure than participants reporting higher levels of self-esteem. Participants faced with a 'Friendly' interviewer scored lower on the GSS Yield 1 and Total Suggestibility measures than did those participants faced with a more 'Abrupt' interviewer. Participants warned about the presence of misleading information scored lower on Yield 1 and Total Suggestibility. A potentially key finding was that participants who received a warning demonstrated an increased number of Shifts in the Friendly condition compared with those who were not warned. In the Abrupt condition this pattern was reversed. Conclusion: The results supported studies showing that all three variables tested affect levels of IS but further suggested that optimal interviewer support for interviewees' discrepancy detection may be provided either by a relaxed interviewer manner or by warnings alone, but not by both.

Competence to Confess: A Case of False Confession and a False Friend.
Sullivan, James P.
Forensic neuropsychology casebook. Heilbronner, Robert L., (Ed); pp. 285-304; New York, NY, US: The Guilford Press; 2005. xiv, 370 pp.

Abstract:

This chapter presents the case of a 36-year-old male defendant by the name of 'William Johnson' who had allegedly shot and killed an acquaintance while drinking. He was facing a charge of first-degree murder. Mr. Johnson reportedly had a history that included prenatal insult, special education, numerous head injuries, and chronic alcohol abuse. The defense attorney had concerns about her client's cognitive function, specifically how it may have impacted Mr. Johnson's understanding and appreciation of his Miranda rights. The author reviewed the transcript and audiotape of Johnson's statement to the police. In this tape the author noted that an acquaintance of Johnson from Alcoholic's Anonymous, who also was a member of the police team, entered the interrogation room and attempted to elicit a confession. Additionally, the author conducted collateral interviews with the defendant's mother, wife and daughter. Medical and educational records were reportedly unavailable despite documented requests. The formal assessment consisted of a structured clinical interview and cognitive and neuropsychological assessments. Results of cognitive and neuropsychological testing were consistent with impaired functions in several domains. Results of personality assessment specifically intended to evaluate his likely behavior in an interrogative setting describe Mr. Johnson as a very suggestible and compliant individual, especially with authority figures. The obtained results offered converging evidence, drawn from multiple sources, that Mr. Johnson's ability to offer a knowing and intelligent waiver was likely compromised. Similarly, his will is likely to be more easily overcome than that of the normal person. Additionally, review of the statement, as detailed earlier, raised some very significant issues about Mr. Johnson's ability to withstand interrogative pressure when the 'false friend' appeared on the scene. The judge ruled that Mr. Johnson's statement to the police was inadmissible. When it was all over, the author really felt that his efforts had been useful in helping justice to be served. In many respects, this assessment experience served to further emphasize the importance of several guidelines that the author has adopted over the years, including: the necessity to familiarize oneself with a variety of forensic instruments and an ongoing awareness of the guidelines for forensic psychologists.

False confessions in the lab: Do plausibility and consequences matter?

Horselenberg, Robert, et. al.

Psychology, Crime & Law, Vol 12(1), Jan, 2006. pp. 61-75.

Abstract:

The present paper describes three studies that examined false confessions in the laboratory. Studies 1 (N = 56) and 2 (N = 9) relied on the by now classic computer crash paradigm introduced by Kassin and Kiechel (*Psychological Science, 7*, 125-128, 1996). Study 3 (N = 12) employed a novel paradigm in which undergraduate participants were falsely accused of exam fraud. Our data indicate that false confessions do occur, even when conditions become more ecologically valid. Furthermore, we explored whether individual differences in compliance, suggestibility, fantasy proneness, dissociation, and cognitive failures are related to false confessions. Of these, only fantasy proneness was associated with false confessions.

Interrogative pressure and responses to minimally leading questions.

Authors:

Baxter, James S., Boon, Julian C. W., Marley, Charles.

Personality and Individual Differences, Vol 40(1), Jan, 2006. pp. 87-98.

Abstract:

A firm rather than a friendly interviewer demeanour may make interviewees more likely to alter their initial responses to questions during requestioning. Conversely, warnings that

an interviewer may attempt to be misleading may lower interviewees' trust, heightening their vigilance and accuracy. Participants were tested under one of four conditions: 'Friendly' or 'Firm' interviewer demeanour, with or without warnings to be vigilant under questioning. The Gudjonsson Suggestibility Scale 2 (GSS 2) was adapted to include only questions which were not overtly leading, based on each scale's narrative. The standard GSS 'Shift', 'Memory Recall', and Total Confabulation' scores were calculated for each condition. Interviewees were most likely to alter their initial answers to questions when the interviewer adopted a firm demeanour, without a warning to be vigilant. These findings support the predictions of the Gudjonsson and Clark (1986) model of interrogative suggestibility which relate to the effects of interrogative pressure.

Comparison between Japanese online and standard administrations of the Gudjonsson Suggestibility Scale 2 and effects of post-warning.

Wachi, Taeko, et.al.

Legal and Criminological Psychology, Vol 24(1), Feb, 2019. pp. 71-86.

Abstract:

Purpose: This study aimed to develop the Japanese online version of the Gudjonsson Suggestibility Scale 2 (GSS2). The effects of post-warning and free recall on suggestibility were also examined. Methods: A total of 442 people aged between 20 and 59 years took the Japanese online version of the GSS2, and their scores were compared with those obtained via administration of the Japanese standard version in a previous study and those of the British normative sample. The influence of post-warning (a technique in which the participant is given an apology for the incorrect negative feedback provided on the first day) and free recall instruction on suggestibility was examined in 10 out of the 20 GSS test questions 2 days after the administration of the online GSS2. Results: There were no differences in Yield2, Shift, and Total suggestibility scored between the Japanese online and standard versions of the GSS2. The difference in Yield1 scores between the two versions was also small. However, there were significant differences between the Japanese online and British versions in all GSS scores other than Total suggestibility. Further, post-warning and free recall effectively avoided an increased number of misled responses to leading questions. Conclusions: The results obtained demonstrate the validity of the Japanese online version of the GSS2. It was also found that certain instructions could be used to prevent further response suggestibility when any misleading questions were provided.

The Personality Assessment Inventory

The **Personality Assessment Inventory** (PAI) is a self-report 344-item personality test that assesses a respondent's personality and psychopathology. Each item is a statement about the respondent that the respondent rates with a 4-point scale (1-"*Not true at all, False*," 2-"*Slightly true*," 3-"*Mainly true*," and 4-"*Very true*"). The PAI is often used in forensics and corrections settings. The test construction strategy for the PAI was primarily deductive and rational. It shows good convergent validity with other personality tests, such as the Minnesota Multiphasic Personality Inventory and the Revised NEO Personality Inventory.

The PAI has a number of strengths for applied psychological assessment. First, the 4-point scale contributes to greater scale reliability and validity, as it provides respondents with the opportunity to give nuanced ratings of themselves (as opposed to a true-false scale). Second, it is relatively economical, assessing most of the constructs that are widely considered important in clinical personality assessment with only 344 items. Third, nearly all of the PAI items are readable at the 4th grade level. Brevity and straightforward item wording makes it accessible to those with lower levels of intelligence and reading ability. Fourth, the responses from each individual's profile can be compared to multiple large samples. The first sample consists of 1,000 people with similar demographic characteristics (e.g., age, gender, ethnicity) to the U.S. Census data. Comparison with this group is useful to detect and estimate the severity of clinical problems relative to the average person. The second sample consists of 1,265 psychiatric patients. Comparison with this group helps assess the severity of psychopathology among other patients. There is also a sample of 1200 offenders from multiple correctional settings and a further sample of 1051 college students. Finally, there are also a number of psychometric (statistical) strengths of the PAI, importantly including content validity and discriminant validity.

The PAI assesses the following clinical issues:

- Somatic Complaints (Conversion, Somatization, Health Concerns, Total)
- Anxiety (Cognitive, Affective, Physiological, Total)
- Anxiety-Related Disorders (Obsessive-Compulsive, Phobias, Traumatic Stress, Total)
- Depression (Cognitive, Affective, Physiological, Total)
- Mania (Activity Level, Grandiosity, Irritability, Total)
- Paranoia (Hypervigilance, Persecution, Resentment, Total)
- Schizophrenia (Psychotic Experiences, Social Detachment, Thought Disorder, Total)
- Borderline Features (Affective Instability, Identity Problems, Negative Relationships, Self-Harm, Total)
- Antisocial Features (Antisocial Behaviors, Egocentricity, Stimulus-Seeking, Total)
- Alcohol Problems
- Drug Problems
- Aggression (Aggressive Attitude, Verbal Aggression, Physical Aggression, Total)
- Suicidal Ideation
- Stress
- Nonsupport
- Treatment Rejection
- Dominance
- Warmth

The PAI includes validity scales for:

- Inconsistency
- Infrequency
- Negative Impression
- Positive Impression

Reliability and Validity of the PAI

Reliability

The data for internal consistency showed that the median alpha coefficients for PAI scales and subscales were .81 (general community sample), .86 (clinical sample), and .82 (college student sample). Test-retest reliability was assessed with additional community and college samples who were retested after 24 or 28 days. Taken together, those two groups produced test-retest correlations ranging from .79 to .92 for the clinical scales.

Validity

At 133 pages, the chapter entitled "Validity Studies" is by far the longest in the professional manual. The test author emphasizes convergent, construct, and discriminant validity, and has amassed data not only from his own validation studies but also from hundreds of others that have appeared in print since the PAI was first issued in 1991. Validity data are presented for all five groups of scales and indexes. The chapter documents the correlations of PAI components with other well-known inventories and structured clinical interview protocols, and presents studies of various criterion groups and their differential responses to the PAI elements. For example, among clinical participants, PAI Depression correlates .66 with the MMPI D scale (Scale 2), and PAI Schizophrenia correlates .55 with the MMPI Sc scale (Scale 8).

Modern test theory methodology was used in concert with classical test theory procedures in some applications. In a tour de force of documentation, the test author provides in this chapter 26 figures and 50 tables that, among other things, delineate the relationship between the indexes and scales of the PAI.

Summary

The PAI is a self-report inventory assessing personality and psychopathology that is convenient to administer, psychometrically sound, extensively researched, and suitable for use in clinical, forensic, and other applied settings. It can be recommended as an alternative to the MMPI-2 (Butcher, Dahlstrom, Graham, Tellegen, & Kaemmer, 1989; 11:244) for its relatively short administration time and its inclusion of scales directly measuring a respondent's amenability to treatment. (from *Burros Center for Testing, 2007*)

About Dr. Paul Simpson

- Extensive experience assisting military courts-martial through consultation with legal teams (Government and Defense), assisting with voir dire of potential members, and expert testimony.
- Has been a course instructor for the Air Force JAG School's Advance Sexual Assault Litigation Course since 2016.
- Has provided CLE trainings for the State Bar of Arizona, Air Force, and Marine JAG regarding:
  - *Alcohol Blackout and Sexual Assault Allegations: What Every Attorney Should Know*
  - *Child Sexual Abuse Allegations: What Every Attorney Should Know*
  - *Daubert Standard and Psychological Evaluations: What Every Attorney Should Know*
  - *Memory in the Courtroom: What Every Attorney Should Know*
  - *Mental Health Evaluations in Homicides and Crimes of Violence: What Every Attorney Should Know*
  - *Anatomy of a Psychosexual Evaluation: What Every Attorney Should Know*
  - *Online Sex Offense: What Every Attorney Should Know*
- Has been an instructor for the Arizona Supreme Court in training competency evaluators.
- A former case manager with Child Protective Services, Dr. Simpson has extensive experience working with victims and perpetrators of sex crimes, including over 1000 psychosexual evaluations of adults and juveniles. He is trained and/or certified in the Abel, Affinity 2.5, Look VTM, MEGA, Static 99R/2002R, Stable/Acute 2007, SVR-20, HCR-20, J-SOAP 2, ERASOR, and Limestone plethysmograph.
- A former Arizona officer for the Association for Treatment of Sexual Abusers (ATSA).
- Since 2003 has provided over 300 full-day trainings in all 50 states for professionals on assessing/treating sexual and Internet compulsions.
- Author of *Second Thoughts*, a book that was instrumental in helping expose the false claims and dangers of '*recovered memory therapy*.' Throughout the 1990's Dr. Simpson was a leading educator on *False Memory Syndrome* and trained thousands of counseling professionals on standards of practice. He also served as an expert consultant to the *Arizona Board of Psychologist Examiners.*
- Dr. Simpson has been a guest on *The Joan Rivers Show*, the *Leeza Gibbons Show*, *Parent Talk Radio*, *Focus on the Family*, *Frontline*, and *Fox News*. He has been a professional consultant to a number of national media, including *20/20*, *60 minutes*, *NBC News*, *Nightline*, *The Oprah Winfrey Show*, the *Chicago Tribune*, *Dateline*, *The Today Show*, *Focus on the Family*, and *Vanity Fair magazine*.

Dr. Paul Simpson
Arizona Forensic Services, LLC
(520) 355-1000

doc@psy.law
www.ArizonaForensics.com