False Confessions: Causation, Impact and Recommendations to Prevent

Approved by Susan Hilal on November 26, 2011
False Confessions: Causation, Impact and Recommendations to Prevent

A Seminar Paper

Presented to

The Graduate Faculty

University of Wisconsin-Platteville

In Partial Fulfillment

Of the Requirements for the Degree

Master of Science in Criminal Justice

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December 2011
Acknowledgments

Receiving a Masters degree was never something that I really wanted to pursue and definitely not something I ever saw myself actually accomplishing. After college, I swore that I would never go back to school; however, my chosen career path has changed that outlook. I decided that I wanted to be a Polygraph Examiner, without any knowledge that it would require me to take Masters-level courses. Once I graduated from polygraph school, I was already just about half-way to obtaining my Masters degree so I decided to complete it. The experience turned out to be a great one, and something that I am now proud to say I accomplished.

I would first like to thank my parents. Without their support and encouragement, I probably would have given up on this opportunity. When I didn't see the advantages to this program before, they helped me to recognize how much a Masters degree would help me in my career and enhance my future. I would especially like to thank my father for reading all of my papers and giving me advice on how to improve them. Although he always pretended like it was an inconvenience for him and that he had to make “so many” corrections, I think we both know that he enjoyed reading them and very few corrections were actually made. Next, I would like to thank Dr. Cheryl Banachowski-Fuller for all her assistance with making sure all of my requirements were completed and for putting up with my constant requests for grade reports so that I could submit them to work. Lastly, I would like to thank Dr. Susan Hilal for not only her significant help during this seminar paper but for all of her help and feedback during the many courses I took with her.
Abstract

False Confessions: Causation, Impact and Recommendations to Prevent

Roger Sauer

Under the Supervision of Dr. Susan Hilal

Statement of the Problem

Since 1989, over 250 individuals have been exonerated of crimes they were convicted of, yet did not commit (The Innocence Project, 2011). Many of these individuals were convicted in part by a false confession that they had voluntarily provided to law enforcement professionals (The Innocence Project, 2011). With the introduction of DNA evidence in most of these cases, innocent individuals have been set free from prison, yet many of them had already served a long period of incarceration prior to their release. This type of treatment in the criminal justice system is an injustice.

Many individuals in the law enforcement profession and academia still do not believe that innocent people would ever confess to crimes that they did not commit. This belief has created a highly adversarial environment in the United States criminal justice system, specifically during interrogations, which has continued to foster false confessions. A false confession helps no one in the justice system. The negative impacts of false confessions are devastating for the confessor, law enforcement and judicial bodies, as well as society as a whole.

Method of Approach

This paper uses secondary resources from peer reviewed journals, scholarly books, professional organization’s web sites, statements made before U.S. Senate hearings, as well as
U.S. Government interrogation handbooks. This information has been complied to not only show that false confessions do exist, but to also demonstrate the adverse impacts that they have on our society. The data located in this paper will also offer strategies and policies that can be implemented to reduce the number of false confessions in the future.

**Results of the Study**

Justice, in the truest sense of the word is what the criminal justice system sets out to achieve every day. When justice is not achieved, the foundations of the judicial system are brought into question, leading to distrust by the people affected by the system (virtually everyone). With innocent people being accused of, and even being found guilty of committing crimes that they were not involved in, the criminal justice system has repeatedly failed. Having a greater understanding of the approaches and concepts that lead to false confessions, policies can be implemented which will allow the criminal justice system to be more effective, to strive to achieve true justice. Although there will never be a perfect system, the current system can be greatly improved to move closer to a goal of perfection. Several policy changes are suggested within this paper that could help to reduce the number of false confessions obtained in the future. These policy changes include limiting the length of interrogations, making it mandatory that all interrogations be video and or audio recorded, a requirement for a post-admission narrative analysis and several other policy changes.
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SECTION I. INTRODUCTION-DISCUSSION OF THE PROBLEM

Statement of Problem

In today’s society, the criminal justice system, specifically the use of interrogation to solicit confessions, has become highly adversarial. Whereas the goal of the United States criminal justice system is to have every individual viewed as innocent until proven guilty, the harsh reality is that individuals are being treated as if they are guilty until proven innocent. With that said, in many instances even when individuals are innocent, they continue to be judged as guilty. Since 1989, over 250 individuals have been exonerated in the United States through post-conviction DNA testing alone (The Innocence Project, 2011). This number is only a rough estimate of the total number of individuals who have been falsely found guilty in the United States criminal justice system. The true scope of this problem is unknown and will never be known due to the fact that DNA does not play a role in every crime and it is impossible to account for the individuals who have since left this world being unjustly convicted of a crime they did not commit.

False confessions are oftentimes at the heart of a wrongful or unjust conviction of a crime. Although many individuals believe that innocent people do not confess to crimes they did not commit, research has shown otherwise. In 1923, John Henry Wigmore, stated that false confessions were “scarcely conceivable, and of the rarest occurrence” (as cited in Garrett, 2009). Although this was written in 1923, the sentiment still prevails in many law enforcement agencies today. The idea that an innocent person would confess to a crime they did not commit, no matter how minor or serious the crime is and regardless of the tactics used by an interrogator, is thought to be extremely rare and near impossible by a majority of law enforcement officers. The broad
appeal and acceptance to this way of thinking has created an environment where law enforcement officers are led to believe that false confessions do not exist and that every confession they obtain is authentic every time.

Specific techniques used by law enforcement agencies can greatly increase their chances of obtaining a false confession from a suspect. Some of these techniques include the introduction of false evidence to coerce or trick suspects, and bluff techniques used to make the suspect feel as though the evidence the police have will show they truly committed the crime (Perillo & Kassin, 2010). These techniques will be explored further, but are generally considered some of the most likely to result in false confessions. Specific countries have outlawed these techniques due to their coercive influence over people, however, in the United States, all of these techniques are lawful, and are used regularly.

Once a confession is obtained by law enforcement, a majority of times they are introduced as evidence at trial. A confession of any sort, authentic or false, is one of the most persuasive pieces of evidence in a court of law. According to Davis and Leo, in cases that they evaluated, 14-25% of individuals that were wrongly convicted of crimes confessed to the crime (2006). When individuals did confess, 73-81% of them were convicted during trial (Davis & Leo, 2006). This statistic shows that a false confession can be extremely damaging to an innocent person. This is not to say that they would have not been convicted during trial without a confession, but it does show that a confession had a strong influence on the outcome. Studies conducted by Blandon-Gitlin, Sperry and Leo (2010) have shown that during jury trials, not only is a confession extremely influential on a juries decision, but also that a typical jury does not typically have sufficient knowledge to make informed decisions on whether or not a confession was authentic.
Purpose of Seminar Paper

The purpose of this research is to provide guidance as to ways to limit false confessions in the future. Even with the vast research that has been conducted on false confessions, law enforcement officers still fail to recognize that all information they obtain through interrogations may not be authentic. This paper will help officers to better understand techniques that may influence a suspect’s decision to confess to crimes they have not committed. It will do so by offering suggestions for policy reform that will limit the number of false confessions obtained and optimally prevent false confessions from influencing individual criminal trials.

Method of Approach

The information for this paper was retrieved from other scholarly research papers, scholarly books, U.S. Senate hearings, civilian web sites and U.S. Government manuals that are accessible to the general public. Through these resources, a comprehensive review of interrogation procedures has been conducted to identify why false confessions occur, how they impact society and how they can be prevented in the future. In addition to a review of interrogation procedures, other procedures used in the criminal justice system such as plea bargaining have been reviewed since these procedures can also be classified as false confessions and injustices. Information gathered is also used to make recommendations for the reduction of false confessions in the future.

Limitations of Research

When interrogation strategies are evaluated and critiqued, a “catch 22” dilemma appears. One on hand, the techniques used may create false confessions. One the other hand, the same techniques can be used to effectively obtain authentic confessions. This creates a situation where
the decision makers or policy reformers need to tread lightly in how they implement reform. At this point, it can be said that false confessions are a necessary evil or side effect of effective interrogation. The last thing that the criminal justice system needs is to become less effective at obtaining authentic confessions. A balance must be achieved in how and when interrogations are conducted in order to limit false confessions while maintain the effectiveness of techniques used to obtain authentic confessions.

Another significant limitation of the current research is the fact that the true breadth of the problem of false confessions remains unknown. The data that has been obtained is from confirmed false confessions. What is unknown at this point is the number of false confessions that have gone undetected. The figures that are used in this research are truly just a representative sample. A definitive number for false confessions will never be fully known. False confessions have occurred throughout history in one form or another, yet research on the topic has only been conducted and documented for the past 30 years or so. With that said, the research that has been conducted creates a solid base for law enforcement officers and policy makers to work with in order to improve the criminal justice system and limit false confessions in the future.
SECTION II. LITERATURE REVIEW

Introduction

The following paper is divided into eight sections. The first part looks at definitions of false confessions and the scope of the problem. The second part looks at the different types of false confessions. The third part looks at individuals that are most susceptible to false confessions. The forth part looks at the legal aspects of false confessions. The fifth part looks at various interrogation techniques which induce false confessions. The sixth part looks at women and false confessions. The seventh part looks at the impact that false confessions have at trial. Finally, the eighth part looks at plea bargaining as a form of false confession.

Definition

Confessions have been made since the beginning of time, however, the study of confessions and the impact that confessions have on individual’s lives is something that is fairly new. In order to explore this topic further, the definition of what a confession is must be formally identified. According to Merriam-Webster (2011), a confession is a written or oral acknowledgment of guilt by a party accused of an offense. Identifying exactly what a confession is will be pertinent in order to explore the existence of false confessions in society. When false confessions are discussed, this means that an individual acknowledged an act that they did not participate in for any number of reasons. The path to false confessions begins when law enforcement targets an innocent person. From that point on, the police are guided by a presumption of guilt which clouds their interpretation of evidence and behavior of the suspect.
Scope of the Problem

The impacts of false confessions are widespread. It will never be known how many false confessions have occurred and continue to occur, however, some very important statistics need to be shared. As previously stated, over 250 individuals have been exonerated in the United States through post-conviction DNA testing alone (The Innocence Project, 2011). Of these cases that have been overturned following the introduction of DNA evidence, approximately 25% of the individuals had made statements during their investigation confessing to crimes they did not commit (Berger, 2009). This is a significant percentage of the population, indicating that false confessions are a real problem in today’s society. This prevalence of false confessions was also substantiated in other research indicating that between 14% and 25% of wrongfully convicted individuals had confessed to crimes they did not commit (Davis & Leo, 2006). The impact of false confessions is exacerbated once a suspect is taken to trial. Between 73% and 81% of individuals that confess to crimes, regardless of the authenticity of the confession, are convicted during their trial (Davis & Leo, 2006). The specific motivations for why an individual would confess to a crime they did not commit will be discussed later, however, based on the previously stated statistics, it is easy to see how a false confession can greatly impact an individual’s life in a negative way.

Why False Confessions are Difficult to Quantify

The true prevalence of false confessions will never be known for the following three reasons. First, the majority of police interrogations are conducted in secrecy and are generally not recorded (Conti, 1999). Second, law enforcement agencies do not keep records on how many interrogations are conducted on suspects (Conti, 1999). Lastly, it is very difficult to
pinpoint what occurred during an interrogation to actually elicit the false confession (Conti, 1999). Later on, suggestions for ways to limit false confessions in the future will be discussed, many of which directly address these issues.

*When can a Confession be Deemed False?*

False confessions can be deemed as false if any of the following four scenarios exist. First, if it is later determined that no crime was committed (e.g. if someone that was presumed murdered is found alive) (Kassin, Drizin, Grisso, Gudjonsson, Leo & Redlich, N.D.) Second, if evidence shows it was physically impossible for the confessor to commit the crime (Kassin et. al., N.D.) Third, if the real perpetrator is apprehended and linked to the crime (Kassin et. al., N.D.) Lastly, if scientific evidence established the confessor’s innocence (Kassin et. al., N.D.)

*Types of False Confessions*

There are three main categories of false confessions that have been discovered: voluntary, coerced-compliant and coerced-internalized. A voluntary false confession is a self-incriminating statement that is offered without the influence of police pressure (Conti, 1999). Several reasons exist for why someone would offer a voluntary false confession. First, a pathological need for fame and recognition might exist (Conti, 1999). This would occur when an individual feels the need to receive some sort or notoriety and is willing to confess to even the most heinous crimes in order to achieve that. A popular case, which produced many false confessions, was that of the Lindbergh baby case. Several individual’s, who had no connection to the crime whatsoever, confessed to being involved simply for notoriety and to see themselves in the media. Secondly, a voluntary false confession may be provided to law enforcement in order to protect a friend or a family member (Conti, 1999). Take a situation where an innocent married couple is incarcerated
and being interrogated for a crime. The male may end up confessing to the crime, even though he did not commit it, just so that his wife would be set free (Conti, 1999). Third, an individual may provide a false confession due to guilt over previous transgressions and a need for self-punishment (Conti, 1999). Individuals that feel extreme guilt from previous activities may confess to a crime they did not commit as a form of punishment to themselves (Conti, 1999). Lastly, individuals may falsely confess to a crime which is less severe than the crime they are being directly accused of or actually committed (Conti, 1999). This would be done in order for them to avoid the more severe punishment. This type of voluntary false confession can be tied directly to the plea bargaining process used in the United States criminal justice system, which will be explored later.

The second type of false confession is coerced-compliant. This type of confession is directly related to the use of extreme techniques during interrogation (Conti, 1999). The individual has full knowledge that they did not commit the act however; the techniques used coerced them into confessing. This type of false confession has been seen with many prisoners of war. These types of confessions were addressed by Glenn A. Fine, former Inspector General for the U.S. department of Justice during a Senate Judiciary Committee hearing in 2008. While discussing the use of coercive techniques during interrogation, Fine stated that harsh techniques are not effective at providing accurate information (Senate Judiciary Committee, 2008). During the same hearing, retired FBI Agent, John Cloonan, stated that the Central Intelligence Agency’s own manual states that heavy handed and coercive interrogation techniques can impair an individual’s ability to accurately recall information (Senate Judiciary Committee, 2008). These comments were directly referring to coerced-compliant false confessions. Coerced-compliant
false confessions can be explained by an individual’s desire to remove themselves from an adverse situation by being compliant with their accusers (Conti, 1999).

The third type of false confession is coerced-internalized. This type of false confession occurs when an individual is anxious, fatigued, pressured or confused and when subjected to highly suggestive methods of interrogation, comes to believe that they actually committed the crime (Conti, 1999). Research has shown that it is possible to alter an individual’s recollection of a crime, or even implant false memories through the use of interrogation techniques (Conti, 1999). This type of false confession may be explained by the creation of a trance-like state in the minds of those being interrogated through techniques used, which leads to the implantation or false information into their minds by the interrogators (Conti, 1999).

The three types of false confession can be broken down further into many different categories, which will be explored later during case study reviews of actual false confessions. By defining the types of false confessions, it is easy to see that they occur due to manipulation by law enforcement or by some other personal motivation within the suspect.

**Who is most susceptible to falsely confessing?**

When exploring if there are certain individuals that are more susceptible to falsely confessing to a crime than another, a theme has emerged. Some of the most vulnerable suspects include juveniles, the mentally ill and the mentally handicapped (Davis & Leo, 2006). These individuals tend to be more easily coerced and led to giving unreliable statements (Davis & Leo, 2006). These types of individuals are very eager to please individuals in a position of authority, therefore when they are “pressed” for information; they tend to provide it to law enforcement even when they know it is not true (Davis & Leo, 2006). A person’s susceptibility to a false
confession can be broken up into three categories: individual factors, criminal factors and contextual factors. These categories will be explored further below.

*Individual Factors*

Age in and of itself makes an individual more susceptible to a false confession. On average, individuals under the age of 21 confess at a higher rate than do older individuals (St. Yves & Deslauries-Varin, 2009). This tendency could be explained in two ways: lack of maturity and lack of knowledge. Younger individuals have a more difficult time with understanding the implications of their actions and their lack of maturity could cause them to be unable to deal with the pressures of interrogation (St. Yves & Deslauries-Varin, 2009). Secondly, younger individuals may not fully understand their rights as a suspect, therefore not evoking them and causing them to be placed under more pressure from law enforcement without the assistance of others, such as a lawyer (St. Yves & Deslauries-Varin, 2009).

Another factor, which is statistically weak according to St. Yves and Deslauries-Varin, yet may impact false confessions, is the ethnicity of the suspect. Some studies have shown that Caucasian suspects are more likely to confess to crime than are individuals from other ethnic groups (St. Yves & Deslauries-Varin, 2009). According to the research this factor may be made more significant based on other factors such as who is interrogating the individual, their age, and strength of the evidence against them (St. Yves & Deslauries-Varin, 2009).

A third individual factor is that of the suspect feeling guilty. Feelings of guilt significantly increase the rate at which someone confesses (St. Yves & Deslauries-Varin, 2009). This can be true for both individuals providing an authentic confession as well as those providing a false confession. A recent study has shown that individual’s who report feelings of guilt, were
50% more likely to confess, than were individual’s that did not have feelings of guilt (St. Yves & Deslauries-Varin, 2009). Internal pressures of the guilt within a person are the primary root cause for their confession. The individual’s goal is to ease their guilt through a confession (St. Yves & Deslauries-Varin, 2009).

The forth individual factor is the personality profile of the suspect. Introverts are less likely to resist interrogation techniques used by law enforcement (St. Yves & Deslauries-Varin, 2009). This may be connected to the above factor of feeling guilty because introverts are more likely to feel remorse and guilt over activities that they have been involved with (St. Yves & Deslauries-Varin, 2009). Extroverts on the other hand are less likely to confess because the external pressures on them (i.e. interrogation techniques) do not have as much of an impact on them are they are better at resisting (St. Yves & Deslauries-Varin, 2009).

The fifth individual factor is related to an individual’s criminal background. Individuals without a prior criminal background are more likely to confess to crimes than are those with a criminal history (St. Yves & Deslauries-Varin, 2009). This can be explain by the fact that those with a criminal background know the techniques law enforcement uses and they are more likely to evoke their rights (St. Yves & Deslauries-Varin, 2009). Without a criminal history and having gone through the interrogation process before, an individual will be more likely to buy into the interrogation techniques used on them, creating internal pressures which make them feel guilty and subsequently confess.

Criminal Factors

In addition to individual factors, two criminal factors also play a role in confessions. The first of these factors is the nature of the crime. Research studies have shown that individuals are
twice as likely to confess to a non-violent crime as to a violent crime (St. Yves & Deslauries-Varin, 2009). The most unlikely crime for an individual to confess to is a sexual one (St. Yves & Deslauries-Varin, 2009). Although the nature of the crime may play a role in whether or not someone confesses to that crime, all other factors must be taken into account as well.

The second contextual factor is the seriousness of the crime. As would be expected, the likelihood of a confession to a crime is related to the seriousness of the crime. This can be explained by the consequences held for the crime. It would be simple human nature for someone to fear the consequences of a serious crime therefore they would be less likely to admit to such a crime (St. Yves & Deslauries-Varin, 2009).

**Contextual Factors**

The last sets of factors are contextual ones, to include the quality/strength of the evidence against an individual, access to legal advice and strategies and techniques used during interrogation. Strategies and techniques used during an interrogation will be further explored during this paper and will not be address here.

The quality/strength of the evidence presented to an individual by law enforcement strongly influences their decision to confess or not. The authenticity of the evidence presented will be explored later. In research, two thirds of individuals confess to their crime when the evidence against them appeared strong, as compared to only one third when evidence appeared weak (St. Yves & Deslauries-Varin, 2009). In addition, 70% of individuals indicated that they would have never confessed to the crime if they were not suspected by law enforcement (St. Yves & Deslauries-Varin, 2009). Out of that population, 55% to 60% stated that they only
confessed because they felt as though law enforcement had enough evidence against them (St. Yves & Deslauries-Varin, 2009).

The second contextual factor is an individual’s access to legal advice. Having access to legal advice will greatly influence an individual’s decision to confess or not. Studies have found that 50% of individuals that did not consult with a lawyer confessed to a crime, as compared to only 30% when they did consult with a lawyer (St. Yves & Deslauries-Varin, 2009). Additional studies have shown that an individual is four times less likely to confess to law enforcement if they contact a lawyer first (St. Yves & Deslauries-Varin, 2009).

As can be seen, the decision to confess to a crime is a complex process. Many factors are involved which can either increase or decrease an individual’s likelihood of confessing to a crime. Interrogation and confession is a very complex procedure with real impacts.

**Legal Aspects of False Confessions**

One of the most widely known and common legal steps that has been taken to address the reality of false confessions is the U.S. Supreme Court Opinion in *Miranda v. Arizona* (1966) (Kassin et. al., N.D.). It was through this opinion, that in the United States all suspects must be informed of their rights to remain silent and be provided legal counsel prior to being directly questioned regarding their involvement in a crime. These simple statements made by police officers to custodial suspects are required because in theory, they would reduce the number of coerced confessions obtained by law enforcement.

Prior to this decision, several other landmark court cases served as a precursor. *Brown v. Mississippi* (1936) was one of these cases. In this case, three African-American males were arrested for murder. They were not allowed to speak with a lawyer and were beaten and tortured
(Conti, 1999). Each of the men eventually signed a confession to the murder that they were being accused of, were convicted and sentenced to death. The Supreme Court eventually overturned these convictions based of the fact that the police violated the men’s right to due process of the law (Conti, 1999). The Court also ruled that any evidence obtained through the use or torture or brutality is inadmissible in court (Conti, 1999). This case was one of the first cases which directly addressed the topic of a false confession and the tactics used by law enforcement to obtain them.

Another case dealing with the topic of false confessions was *Haynes v. Washington* (1963). In this case, the suspect was denied contact with his family and attorney and was informed by police that these requests may be granted to him, however, only if he made a statement first (Conti, 1999). In this case the United States Supreme Court ruled that the suspect’s confession was obtained by coercion and inducement by law enforcement, therefore the confession was deemed to be inadmissible at trial (Conti, 1999).

One of the most recent court cases dealing with false confessions is *Arizona v. Fulminante* (1991). In this case the United States Supreme Court ruled that a conviction based on a confirmed coerced confession will not be automatically reversed (Conti, 1999). Convictions involving coerced false confessions will be valid if the prosecution can still prove beyond a reasonable doubt, with other sufficient evidence, that the defendant is guilty (Conti, 1999). This decision reversed the prior ruling that all conviction based on a coerced confession would be automatically overturned (Conti, 1999).

In the United States, not many direct legal protections have been offered to individuals that have provided false confessions. Even with the rulings cited above, false confessions are
still obtained and many are admissible in court. The topic of admissibility of false confessions in court proceedings will be addressed later in this paper.

**Interrogation Techniques Which Lead to False Confessions**

Garrett (2009) has best summed up how false confessions occur by saying “false confessions do not happen by happenstance. They are carefully constructed during an interrogation and then reconstructed by any criminal trial that follows” (pg. 4). Specific techniques used during interrogations have been shown to increase the likelihood that an individual will confess to a crime they did not commit. Several of these techniques will be explored below:

*The Bluff Technique*

According to Perillo and Kassin (2010), the main motivation for individuals to confess to a crime or other activity is an act of social compliance. When an individual feels as though they are trapped due to an authority having evidence against them, they feel as though the only way to escape the interrogation or situation is to confess, regardless of whether or not they actually committed the act (Perillo & Kassin, 2010). The bluff techniques used during an interrogation is essentially when an authority figure, typically a law enforcement officer, pretends to have evidence from a crime that would show who the culprit is, without necessarily implicating the suspect directly in that crime (Perillo & Kassin, 2010). The motivation for confessing at this point is to remove themselves from the interrogation. The suspect believes that even though they confessed to a crime, the evidence that will truly show who the offender is will prove that it was not them in the long run (Perillo & Kassin, 2010). This was the scenario in the case of Jeffrey Deskovic. The police stated that they had DNA evidence showing who the rapist was and
Deskovik subsequently falsely confessed to the rape in hopes that the DNA would show that it was not him. Deskovik was later convicted for this crime due to his confession; however, he was later exonerated. Following his exoneration, he stated that he confessed because “believing in the criminal justice system, and being fearful for myself, I told them what they wanted to hear” (Perillo & Kassin, pg. 3, 2010).

Perillo and Kassin (2010) tested whether or not the bluff would cause individuals to falsely confess with a number of experiments. The first experiment consisted of 79 students, who were required to type letters on a computer as quickly and accurately as possible. They were also informed that if at any time they hit the ALT key, the computer would crash. Approximately sixty seconds into the students typing, the computer crashed and the students were asked if they hit the ALT key, to which 100% of them responded “no” (Perillo & Kassin, 2010). Once the computer was rebooted, the experimenter acted as if they were frustrated with the students and once again asked if they had hit the ALT key. Once again, all responded “no.” After the second denial, the experimenter asked the student’s partner (experimenters confederate) if they saw the student hit the ALT key. It was at this point where several scenarios played out. The confederate would either say that they saw the student hit the ALT key (false evidence), the confederate would say that the students hands were nowhere near the ALT key (affirmed innocence), the confederate would say they were too busy to see anything (no tactics), or the experimenter would say that they computer had a key stroke recorder but it was password protected and they didn’t have immediate access to it (bluff) (Perillo & Kassin, 2010). Following this manipulation, the experimenter attempted to have the students sign a confession, to which 43 of the 71 students did (Perillo & Kassin, 2010). Of these confessions, 26.67% from the no tactics group or baseline group confessed, 35.71% from the affirmed innocence group
confessed, 78.57% from the false evidence group confessed and 86.67% from the bluff group confessed (Perillo & Kassin, 2010).

The second experiment was very similar to the one just discussed, however, the students from the baseline and bluff groups were debriefed following the experiment to see why they did or did not confess. Through this experiment, it was discovered that 75% of the students directly cited the bluff by the experimenter as the reason that they confessed (Perillo & Kassin, 2010). The main reason given for the confession was that the students felt as though the experimenter would then be able to go and check the recorder to see that they did not hit the ALT key (Perillo & Kassin, 2010).

These experiments show that the bluff technique and the use of false evidence can be extremely influential in an individual’s decision making process regarding confessing to an act. Although this experiment was conducted in an educational setting and some could argue that there were no real world consequences of a confession, it still shows that there is a connection between false evidence, the bluff technique and false confessions. Perillo and Kassin (2010) completed their article with a statement that the bluff technique placed innocent individuals at risk and its use should be approached with extreme caution.

The Reid Technique

One of the most well known and most used interview and interrogation techniques is the Reid Technique. This technique was developed by John E. Reid & Associates, Inc. and is based on the identification of deceptive behaviors. The website for the company touts that they train thousands of individuals each year in this technique (John E. Reid & Associates, Inc., 2004). The manual for the technique teaches interrogators how to conduct a behavioral analysis on
suspects and interviewees. A behavioral analysis looks for ways in which individuals answer specific questions or how they physically act as they answer the questions. Based on the individual’s behaviors, John E. Reid & Associates claim to have an 85% accuracy rate at detecting deception or truth in individuals (Davis & Leo, 2006).

This technique for detecting deception has come under much scrutiny during studies regarding its reliability. Many studies have been conducted on whether or not individuals in any profession are better at detecting deception based on verbal and physical indicators of deception. These studies have mainly determined that individuals detect truth and deception at a rate of around 50% or chance (Davis & Leo, 2006). Specific studies conducted on police officers, polygraph examiners and judges have shown that these individuals were able to detect truth and deception at a rate of accuracy between 45% and 60% when using the principles of the Reid technique (Davis & Leo, 2006).

*The “Borg Maneuver”*

The “Borg Maneuver” is an interrogation technique which is essentially the second step of the Reid technique. This is taught by Reid as a way of interrogating a suspect following the initial behavioral analysis of them. The first essential step of this technique is a positive confrontation (Davis & Leo, 2006). The positive confrontation is the point of the interrogation in which the police officer accuses the suspect of the crime at hand and expresses complete confidence in the guilt of the suspect by offering evidence (Davis & Leo, 2006). The end goal of this initial confrontation is to instill in the suspect that they will be unable to prove their innocence because the police have plenty of evidence against them.
Presentation of False Evidence

The topic of presentation of false evidence has been explored earlier during the bluff technique. This is a very effective way to induce confessions from individuals, both authentic and false. False evidence could be presented in the form of DNA, fingerprints, eye witnesses, doctored polygraph results etc. As was discuss in the earlier section, individuals that are presented with false evidence are more likely to confess to something that they have not done, mainly because they feel as though the evidence will set them free. In the United States, the presentation of false evidence by the police is legal, however, in some countries, to include the United Kingdom; it has been outlawed due to the influence of this technique and its propensity to create false confessions (Davis & Leo, 2006).

Use of Themes

Another technique which is widely used amongst law enforcement and intelligence agencies during interrogations is the use of themes. The concept of the use of themes is simple; the interrogator gives the suspect legal and moral justifications and or excuses for why they would have committed the act (Davis & Leo, 2006). Themes are used to motivate the suspect to confess to the crime by making them feel as though it wasn’t such a bad act and/or that the legal system would be more lenient on them due to their justification and admission (Davis & Leo, 2006).

Sympathy

Police officers will show sympathy for the suspect and explain to them that they understand how the suspect is feeling and that if the police officer was placed in the same situation; he would have taken the same actions. This technique could also be referred to a
minimization. The police officer will make the suspect feel as though the crime they committed isn’t as big of a deal as other people are making it out to be (Davis & Leo, 2006). Individuals will talk to, and confess things to people that they like. The basis behind this technique is to convince the suspect that the police officer genuinely likes them and that they have their best interest in mind. This of course is simply a ploy in order to get the suspect to confess to something that the police officer feels they did.

**Maximization**

This technique is the exact opposite of the sympathy technique and minimization. The use of this technique requires the interrogator to make it seems as though if the suspect does not confess harsher treatment and punishment will be the result (Davis & Leo, 2006). This can be seen in threats made by the interrogator that if for example they do not confess to the assault in the second degree, the prosecutor and judge will be under the assumption that it was a premeditated act which had the desired result of more than simply injury to the victim. This technique is used to scare the suspect into confessing to a crime that is less severe than what they could be charged with. This technique is, in some ways, similar to a plea bargaining process that will be discussed later.

**Women and False Confessions**

False confessions can and do occur in both sexes in society. In fact the topic of false confessions may be more prevalent to women than men. Research has shown that women are more likely than men to plead guilty at trial and provide confessions during interrogations (Jones, 2011). It has been discovered that women are more susceptible to leading questions by
police than men are and that they are more likely to fall into thinking that they must conform to the authority figure, in this case the police (Jones, 2011).

Three factors that have a greater impact on women rather than men in regards to false confessions are family responsibilities, coercion by partners and a desire to protect others (Jones, 2011). Women are more often than not the care provider for their children, making it desirable for them to want to be away from their home life as little as possible (Jones, 2011). This increases the chances that women will falsely confess to something in the hopes of returning to their home sooner rather than later. Coercion occurs in the form of women confessing to crimes that their male counterparts actually committed. This coercion is often the result of violence and intimidation at the hands of their male counterparts, which forces women to falsely confess (Jones, 2011). Lastly, many research studies have looked at the idea that women are much more likely than men to want to protect others, mainly their partners (Jones, 2011). In this scenario, a woman may confess to a crime they did not commit in order to keep their male counterparts out of jail. They do this in order to show that they are loyal and in the hopes of receiving good treatment from them in the future (Jones, 2011).

False confession can occur in either sex, yet women appear to be more vulnerable. They may fall victim to all of the same techniques used by police as stated above, and even have added vulnerabilities as was just discussed.

The Impact of False Confessions at Trial

False confessions have a huge impact on jury trials. When a prosecutor has a confession, false or authentic, that they can use as evidence at a trial, it is one of the most powerful pieces of evidence they could have (Blandon-Gitlin, Sperry & Leo, 2010). The ideal situation during a
trial would be that false confessions would be inadmissible in court however, this rarely happens due to the fact that many individuals do not believe in the existence of false confessions. Unfortunately, lay people and police are unable to accurately identify false confessions (Blandon-Gitlin, Sperry & Leo, 2010).

Two studies were conducted in order to determine if jurors would identify interrogation techniques coercive, and to see if expert testimony regarding false confessions would sway the juror’s opinions on the authenticity of the confession at trial. In the first study, the participants were given a survey which asked them to rate the coerciveness of certain interrogation techniques and whether or not they felt they would produce a false confession (Blandon-Gitlin, Sperry & Leo, 2010). Out of all of the interrogation techniques presented to the participants, the only two that they generally rated as being coercive was the use or threat of use of violence and the use of false evidence (Blandon-Gitlin, Sperry & Leo, 2010). In addition, the participants deemed that although the use of false evidence was coercive, it was unlikely to produce false confessions from innocent suspects (Blandon-Gitlin, Sperry & Leo, 2010). On the other hand, the participants viewed the use or threat of use of violence as not only coercive, but also as having the ability to produce false confessions (Blandon-Gitlin, Sperry & Leo, 2010). Overall, regardless of the interrogation techniques used, the participants felt as though even the coercive techniques could be resisted by guilty suspects and even more easily resisted by innocent suspects (Blandon-Gitlin, Sperry & Leo, 2010). This study showed that although the participants in this study believed that false confessions could be produced by certain techniques, they were still extremely unlikely to occur.

The second study was used to determine if informing the jury about false confessions through expert testimony would influence the jury’s decision making process. In this study, the
participants (jurors) were instructed to read a trial transcript and make a decision regarding guilt or innocence. Following that, they were instructed to read expert testimony regarding false confessions and then once again make a decision of guilt versus innocence. Prior to viewing the expert testimony, 89.7% of the participants found the defendant guilty (Blandon-Gitlin, Sperry & Leo, 2010). Following the expert testimony, only 76.47% of the participants found the defendant guilty (Blandon-Gitlin, Sperry & Leo, 2010). When the participants were asked why they decided to convict or not to convict the defendant, the majority of the participants cited the confession as the reason for their conviction, if they had found the defendant guilty. With that said, however, many of the participants did not feel as though the confession was true and voluntary (Blandon-Gitlin, Sperry & Leo, 2010).

These studies had two main results which gave importance to the topic of false confessions. First, the initial study showed that the majority of jurors do not understand the psychology behind interrogation techniques and how they can be manipulated to induce confessions from innocent people. Even though they recognize that interrogation techniques may be coercive, they still do not believe that they would cause false confessions. Secondly, the follow-up study showed the importance of expert testimony in cases where false confessions are brought into question. Although the expert testimony did not completely rid the juror’s bias towards guilt, it did reduce the number of guilty finding by a fairly significant percentage. The presentation of a confession, false or authentic, in a trial is an extremely hard hurdle for a defendant to jump. This is why all efforts must be made to limit false confessions and to not allow false confessions that do occur into trial.
Plea Bargaining as a Form of False Confessions

In the United States criminal justice system, plea bargaining can also be a tool used to induce a false confession. Between 90 and 95 percent of all criminal cases in the United States are resolved through the process of plea bargaining (Leo, 2008). The process of plea bargaining requires a defendant to admit guilt to an offense in exchange for a reduction in charging or sentencing by the prosecutor (Leo, 2008). By doing so, the defendant essentially waives their rights to a trial in regards to the offense they were being charged with. False confessions come into play in this situation when suspects are being overcharged for offenses. Many times, a suspect will be charged with an offense more severe than what they actually should have been charged with. This is done as a ploy by the prosecutor so that they can then convince the suspect to admit guilt to a less severe offense. In this situation, many suspects may decide to agree to a plea, even if they are innocent, simply to avoid going to trial. This desire to accept a plea is exacerbated when the suspect is confronted with false evidence, which may make them feel as though admitting guilt is their only way to protect themselves. Additionally, for individuals who had committed a more serious crime, they would be motivated to take a plea bargain simply to avoid prosecution for their actual crime. In this situation, however, if the suspect accepted a plea and admitted guilt to a lesser offense than the one they actually committed, it also could be considered a false confession due to the fact that the individual did not commit that crime.

Although many scholars may not feel that plea bargaining in and of itself would classify as a false confession, it is easy to make the connection between the two. Plea bargaining is used as a tool to limit the number of cases that actually make it to the overcrowded court system, however, abusing its intended purpose can also place innocent people at risk of having their rights violated and admitting to acts they did not commit.
Conclusion

With the number of proven false confessions in recent history, not much research has been conducted on the topic. Most of this is attributed to the idea that most individuals believe false confessions do not occur. It has only been in recent years where interrogation practices have been explored by law makers and scholars alike, however, much of the focus is placed on abusive techniques in and of themselves rather than the effects they may have. The following section focuses on theory as to why an individual may feel that confessing to a crime they did not commit is the best option.
SECTION III. THEORY

Why do Individuals Falsely Confess?

Length of Interrogations

The interrogation process has been and always will be a very adversarial one. The police interrogate suspects that they feel, due to evidence, is guilty. Although the police do not always only interrogate guilty individuals, they approach the interrogation as if they were. This leads to very lengthy interrogations, which eventually break down the spirit of the individual they are interrogating. Research on interrogations suggests that the average interrogation lasts only approximately two hours (Davis & Leo, 2006). Interrogations that have lead to 125 confirmed false confessions lasted on average 16.3 hours (Davis & Leo, 2006). This length of time being interrogated only increases the suspects desire to escape from the situation. They may not think about or even care about the long-term consequences of what they say or confess they simply want to remove themselves from the interrogation. This desire to escape from the discomfort and unpleasantness of the interrogations could lead to the individual confessing falsely. At the present time, there are no set rules that limit the length of interrogations. The length of an interrogation is essentially determined by the interrogator themselves. There are only two ways for an individual to end an interrogation: confess or ask for a lawyer. Even when they ask for a lawyer, in some instances it does not mean that the interrogation completely ends right then and there.

Stress of Interrogations

As was just explored, the average length of interrogations that have led to false confessions is extremely long, much longer than the norm. For individuals who have never been
in an interrogations setting, they may not recognize the stresses involved for the individuals being accused of a crime. Many individuals feel that if they were innocent, it doesn’t matter what an individual does or says to them, they would not confess to something they did not do. It has been discovered that stress impairs an individual’s judgment and may cause them to make unreasonable decisions (Davis & Leo, 2006).

The interrogation process from the beginning has one goal in mind, to make the suspect confess. The interrogation process of today’s society is extremely structured and goal-directed in a manner to make the suspect feel as though their only way out of the process is to confess (Leo, 2008).

*Feelings that they can’t win*

Due to the stress and length of interrogations, some individuals feel as though the only way to get out of the situation is to confess and tell the police what they want to hear. After hours of being told that they are lying and that the police have evidence against them, suspects tend to confess to leave the interrogation rather than worrying about the consequences of their confession (Davis & Leo, 2006).

An interrogator’s main goal is to make the suspect feel as though they are trapped, powerless and make them feel as though their only option is to confess (Leo, 2008). The process is used in order to make the suspect confess or provide a statement to police so that they can avoid harsher punishment (Leo, 2008). An interrogator may use negative incentives in order to achieve feelings of powerlessness and break-down their denials. Many of these incentives have been discussed previously and include: accusations, attacking denials, evidence ploys and the use of pressure (Leo, 2008). Accusations are used in order to show the suspect that the interrogator
has an unwavering belief that they are guilty of the crime in question and that the only way to remove themselves from the situation is to confess (Leo, 2008). Attacking denials is a technique used that does not allow the suspect to deny involvement in a crime. This is done by the interrogator cutting them off or interrupting them when they are trying to deny involvement (Leo, 2008). The use of evidence ploys has been described earlier, therefore will not be discussed further here. Lastly, the use of pressure is a very common aspect that cases individuals to confess. This could also be acquainted to creating stress during an interrogation, which is described above. Through the use of escalation through changes in voice inflection used by the interrogator and repetition of the fact that they are convinced that the suspect committed the crime, the interrogator creates an extremely stressful environment in which the suspect will say what they want them to say just so they will leave them alone (Leo, 2008).

Trickery

This reason for a false confession could apply to all of the interrogation approaches that have been discussed. Each of these techniques is used to win over the suspect and essentially force them to confess. When interrogators use these techniques, they are using trickery at the expense of suspects in order to satisfy their goal of solving the case. One of the biggest forms of trickery used by law enforcement is the introduction of false evidence. This could be also considered the “bluff technique” as indicated above.

This technique can be taken further by law enforcement in the form of actually created false documents which would indicate the suspect committed the crime (i.e. false lab reports, polygraph examination results, etc.). There have been several cases appealed in the past on the basis that a confession was obtained by using trickery and false documents, and the results of
those appeals have been split. In some cases, the techniques used by law enforcement were deemed to be a violation of their due process rights and in others; they were deemed to be appropriate and thought to have not induced a false confession (Mount, 2007). The United States Supreme Court has yet to rule on the issue of using trickery or false documents during an interrogation, therefore at the present time; the technique is legal barring a State Appeals Court ruling otherwise. Mount (2007) has warned law enforcement agencies regarding the use of this technique due to potential legal backlash in the future, however, at the present time there are no formal laws prohibiting this practice.

Other techniques that would fall into this category would be using moral incentives to convince the suspect that they will feel better if they confess, making the suspect feel as though the criminal justice system will look more favorable on them if they confess, and making promises that they will receive a more lenient sentence if they confess (Leo, 2008). All of these techniques would be considered ethically wrong, simply because the interrogator knows that none of what they are saying is true. A suspect really only has more to lose by confessing to a crime, rather than looking forward to gaining anything from it.

Conclusion

When looking at the reasons why a suspect will confess to a crime, it comes down to three main areas: they wish to terminate the interrogation process and escape all that comes along with the process (stress, confinement, etc.); the suspect believes that they have no other option than to comply with the interrogator; or the suspect comes to believe that the benefits of confessing outweigh the costs of continuous denial (Leo, 2008). The criminal justice system has created an adversarial interrogation process for all suspects, guilty and innocent. Most
interrogators are relentless and will not end their interrogation until they obtain the results that
they are looking for, a confession. Every individual has their breaking point and many
interrogators are effective at getting to and surpassing this breaking point, which in turn creates
confessions both of an authentic and false nature.
SECTION IV. CURRENT STANDARDS AND PRACTICES

The interrogation process has long been an extremely secretive event that occurs behind closed doors with little public insight into what rules law enforcement and the military need to follow. Very little information is available in a public forum regarding authorized and unauthorized techniques. Following the detection of prisoner abuse at Abu Ghraib Prison in Baghdad, Iraq in the early 2000’s, public outcry forced the public release of the United States military interrogation handbook. This handbook has become the best public document resource available for understanding interrogation technique policy.

The U.S. Army Intelligence and Interrogation Handbook (Department of the Army, 2005) outlines the various interrogation approaches that soldiers are authorized to use. The first approach that may be used is the direct approach. This approach is the most simple to use and is used primarily on individuals that they feel will cooperate with the process (Department of the Army, 2005). When using the direct approach, the interrogator asks the subject very direct questions pertaining to the information that they wish to develop. Using this approach, no attempt is made to conceal exactly why the individual is being questioned and exactly what the interrogator wants to know (Department of the Army, 2005).

The next approach is the incentive approach. Through this approach, an interrogator may offer the suspect something in exchange for their cooperation (Department of the Army, 2005). For instance, if a suspect enjoys smoking cigarettes, the interrogator may offer them a cigarette in exchange for information that they may have. This approach must be use carefully however, and the interrogator must be able to fulfill all of the promises they make to the suspect.
The next approach, the emotional approach, has two different stages and aspects. This approach focuses on the things that motivate a suspect. For example, if a suspect is strongly motivated by their family, the interrogator may use interview themes related to his or her family in order to obtain information from them. The first aspect of this approach is the emotional love approach. This is when the interrogator exploits the things that the suspect loves for his or her advantage (Department of the Army, 2005). For example, if it is the suspect’s family that they love most, the interrogator may offer the suspect chances to talk to their family or help their family in exchange for information. The next aspect is the emotional hate approach. With this approach, the interrogator ascertains what the suspect hates and uses that topic for theme material (Department of the Army, 2005).

The third approach is the fear-up approach. Through this approach, the interrogator uses aspects of what the suspect fears during the interrogation to exploit them (Department of the Army, 2005). This approach may be used in either a harsh or mild capacity. When an interrogator uses the fear-up harsh approach, they are trying to convince the suspect that they do indeed have something to fear during the interrogation (Department of the Army, 2005). While using this approach, the interrogator raises their voice, screams at the suspect and may even throw objects around the room in order to convince them that they have no option other than to cooperate (Department of the Army, 2005). While using the fear-up mild approach, the interrogator is still attempting to exploit the suspect’s fears; however, the use of screaming and throwing objects does not occur (Department of the Army, 2005). While using this approach, the interrogator may once again attempt to incentivize the suspect’s cooperation by explaining to them how they could mitigate their fears.
The forth approach is the fear-down approach. The overall goal of this approach is to calm the suspect and attempt to show them that they will be treated properly during the interrogation (Department of the Army, 2005). This is the exact opposite of the fear-up approach in that the interrogator is attempting to show the suspect that they have nothing to fear as long as they cooperate during the questioning.

The fifth approach is the pride and ego approach. This approach is used in order to trick the suspect into providing information by flattering him or her (Department of the Army, 2005). This approach is most effective with individuals who enjoy receiving credit for things that they have done, or individuals that have always been looked down upon and see the interrogation as a time for them to obtain notoriety.

The next approach, futility, is used to show the suspect that they will eventually have to cooperate in order to get out of the interrogation (Department of the Army, 2005). While using this approach, the interrogator must present the suspect factual information that allows them to rationalize their actions. This approach is often most effective when used in connection with another approach to assist in the rationalization of their actions (Department of the Army, 2005).

Next, is the file and dossier approach. In using this technique, the interrogator gathers documents regarding the suspect and “pads” it with other documents not related to them, and subsequently shows the file to the suspect (Department of the Army, 2005). The logic behind this approach is that the suspect will feel as though the interrogator knows a lot more information about the suspect than they really do. This feeling will help the suspect understand that they have no choice but to cooperate because the interrogator already knows everything. This approach is similar to the false evidence approach discussed earlier.
The rapid fire technique is when a team of two or more interrogators ask the suspect questions one right after the other (Department of the Army, 2005). This technique does not allow the suspect time to formulate answers and quickly shows inconsistencies in their story, which they will then have to explain (Department of the Army, 2005). This approach will eventually cause the suspect to speak freely about their actions and increase their desire to prove there are no inconsistencies.

The last approach identified in the handbook is the silent approach. This approach is very simple, yet requires the interrogator to be very patient. Through this approach, the interrogator says nothing to the suspect, but looks them square in the eye for an extended period of time (Department of the Army, 2005). The logic behind this technique is that nobody enjoys sitting in silence and eventually the suspect will find the urge to break the silence, at which point they will be willing to open up to the interrogator (Department of the Army, 2005).

These approaches are what the U.S. military is not only taught, but are required to use during interrogations. Although some of the approaches differ from ones that have been previously discussed as inducing false confessions, many similarities can be seen in all of them. This handbook is the best publicly available source providing insight into how interrogations are actually conducted and the approaches used on a daily basis to elicit information from individuals.
SECTION V. SUBTYPES OF FALSE CONFESSIONS AND CASE REVIEWS

Three main types of false confessions were discussed during the literature review section of this paper: voluntary, coerced-compliant and coerced-internalized. These three main categories can be broken down further into many more subcategories which will be explored below. Many of the categories are similar, therefore only a couple of them will be explored further. Voluntary false confessions will not be explored due to the fact that this paper is focused on actions taken by interrogators which induce false confessions.

*Brainwashing* (coerced-internalized)

The first subcategory is entitled brainwashing. This type of confession is a result of interrogators using deceit in order to persuade a suspect that they must have committed the crime (Warden & Drizin, 2009). This technique is similar to the bluff technique describe earlier, because it uses false evidence. The case of Michael Altenburger is a prime example of a false confession resulting from brainwashing by law enforcement. On 15 November 1973, a fire in the Stratford Apartments in Los Angeles, CA claimed the lives of 25 individuals. Michael Altenburger, an eighteen-year-old transient who had set fires in the past was arrested and accused of the crime. He was charged with twenty-five counts of murder and one count of arson. After Altenburger was arrested, his interrogation by law enforcement began. Two lies were initially told to Altenburger regarding evidence that the police had against him. First, he was informed that there were eye witnesses at the scene of the crime which gave a description of the perpetrator that matched Altenburger’s appearance (Kendall & Farr, 2009). Second, while going through Altenburger’s belonging with him, the police added a pack of matches to the pile, which were not actually found on his person when he was arrested (Kendall & Farr, 2009). During his
questioning and polygraph examination, Altenburger was time and time again asked about setting the fire and at points was asked if it was possible that he had a lapse in memory about his actions. Following a transfer from one location to another, Altenburger was once again questioned about his actions on the night in question. Following approximately ten minutes of interrogation, one of the police officers emerged from the room stating that Altenburger confessed to setting the fire in an attempt to kill his mother (Kendall & Farr, 2009). The interrogation was not recorded and whether or not Altenburger actually confessed has never been proven. The police officer that claimed Altenburger confessed was told to return to the room and obtain a taped confession. The police officer went into the room with an exhausted Altenburger and discussed details of his confession with him. Altenburger had a difficult time recalling details of their discussion, so the police officer stated “but you do remember that’s why you set the fire because you wanted to kill your mother, right?” to which he responded yes (Kendall & Farr, 2009). Days after this confession, Altenburger was subsequently interviewed, once again denying that he set the fires. Even with that, court proceedings for his charges began, however, thanks to a dutiful district attorney, it was established that there was not possible way that Altenburger could have actually set the fires and the charges were dropped.

This case is an example of the police using false evidence and other techniques which ultimately convinced Altenburger that it was possible that he committed the crime, leading to his confession. The police in this case not only took advantage of his fatigue, but also used unethical means to obtain a confession from an innocent person. Had it not been for the district attorney noticing that something did not seem right, Altenburger would have more than likely gone to trial and been convicted for a crime he did not commit based solely on a false confession.
The second subcategory is entitled desperation. This type of confessions is a result of a suspect being exhausted and confessing simply to end a grueling interrogation (Warden & Drizin, 2009). Through this type of false confession, the suspect knows that they are innocent and they confess in order to end the interrogation with the hope that they will be able to prove their innocence at a later date (Warden & Drizin, 2009).

The case of Donnell Vaughn is an example of a suspect confessing to a crime that he did not commit, out of desperation. Donnell Vaughn is a twenty-four year old male that had been arrested in connection with the shooting a two females in a vehicle. Vaughn had been present during the crime, as a passenger of the vehicle from which two of his friends shot at the other car, however, did not conduct any of the shooting. Several lies were told to Vaughn, to include that they had witnesses that saw him shooting and that his grandmother had suffered a heart attack due to the police searching the home he shared with her for evidence (Smith, 2009). In addition, during his interrogation, Vaughn was essentially guaranteed that if he cooperated and confessed, he would be released so that he could visit his grandmother in the hospital, or at her funeral (Smith, 2009). Vaughn eventually made a confession which implicated him as one of the shooters. Later Vaughn stated that he confessed to the crime because he was tired and wanted to check on his family. Additionally, he indicated that the interrogator was leading him in what he wanted him to say during the confession. Vaughn simply confessed and said what the police wanted to hear in order to check on his family (Smith, 2009).

During Vaughn’s subsequent court hearings, District of Columbia Superior Court Judge Herbert Dixon Jr. ruled that the confession was inadmissible in court because the police had
exceeded their bounds during the interrogation (Smith, 2009). Vaughn’s confession was deemed to be a product of police coercion and psychological manipulation. One of the main violations was deemed to be the promises of leniency Vaughn was given (that he would be released after a confession). This in and of itself was deemed to be a violation of his due process rights under the United States Constitution (Smith, 2009).

*Mental Fragility (coerced-compliant)*

A third subcategory of false confession is mental fragility. This type of false confession is induced by the police using techniques to obtain confessions from individuals with mental disorders (Warden & Drizin, 2009). This type of false confession is a result of the police taking advantage of those most susceptible to false confessions. As was discussed earlier, individuals with mental disorders are eager to please others and susceptible to believing what they are told.

An example of a false confession being attributed to mental fragility is the case of Ozem Goldwire. Ozem was a twenty-eight year old male with characteristics of autism who was arrested in connection with the murder of his sister (Dwyer, 2009). Ozem reported that he had found his sister laying in bed with a mouth full of blood after he returned home from a night at work. He was arrested for the crime and held in custody for seventeen hours prior to falsely confessing. On numerous occasions, he had denied any involvement in the crime, however, after several hours of interrogation, he stated that he had argued with his sister and hit her with a cookie tin (Dwyer, 2009).

Although the exact interrogation techniques used on Ozem are not known, due a lack of recording, Kathy Yates, a Psychologist involved in the case stated that the interrogation techniques used against him were coercive in nature and when you combine that with the
seventeen hours of questioning and Ozem’s cognitive disabilities, it was a “perfect storm” for a false confession (Dwyer, 2009). This case shows that individuals of all cognitive abilities are susceptible to false confessions. When the police are dealing with individuals with limited cognitive abilities, the susceptibility to a false confession is exacerbated.

*Police Force (coerced-compliant)*

A forth subcategory of false confessions is police force. These false confessions are induced by physical violence, either actual or perceived, used by interrogators (Warden & Drizin, 2009). These types of false confessions are more prevalent in times of war; however, instances of civilian police force use in daily criminal interrogations have also been documented. These types of false confessions are much more easily understood due to the physical aspects of the interrogation as opposed to the psychological aspects that many other techniques rely upon.

An example of a false confession induced through the use of police force is the case of Corey Beale. At the time of Beale’s interrogation, he was seventeen years of age and being interrogated for the murder of one of his friends. Beale was interrogated over the course of three separate days for an average of nine hours each day (Witt, 2009). Throughout the course of his interrogation, Beale was tricked into signed a Miranda waiver, as the police officers introduced it to him as a release waiver, stating that when he signed it, he would be released. Additionally, on multiple occasions, Beale had asked to speak to his mother and to a lawyer. All of these requests were denied by the police officers because they told him that he didn’t need to speak with them due to the fact that he was a witness to the murder and not a suspect (which was a lie) (Witt, 2009).
As Beale continuously denied knowing anything about the murder of his friend, the questioning became more threatening. The interrogators began to scream, cuss and threw Beale up against a wall (Witt, 2009). Additionally, the interrogations were attempting to instruct Beale what to say, claiming that if he confessed, he would be released. Beale eventually broke down and confessed to a murder that he did not commit. When ask why he confessed, Beale stated “I was in questioning for three days. Man, I was tired. I wanted to go home. If they tell me, ‘Shoot this dude right here and you go home,’ I’m going to do it if that’s what it takes to go home. I would have said anything to get out of that room” (Witt, 2009, pg. 382).

Conclusion

These are just four of the hundreds of examples of false confessions that have been obtained by suspects during interrogations. It is clear to see how the actions that the police take and words that they use during interrogations can induce false confessions. If there was one common theme in all of the above cases, it would be deception. In some form or another, deception was used by the police in each one of these cases.

It is unfortunate that cases like these exist. With that said, the only way that the criminal justice system can become more effective is by learning from its mistakes. Just like with every process in the world, the criminal justice system will never be perfect, however by learning from mistakes, it can become more fair and effective than at any other point in history.
SECTION VI. RECOMMENDATIONS FOR REDUCTION OF FALSE CONFESSIONS
AND CONCLUSION

After reviewing all of the data regarding how and why false confessions occur and who is susceptible to them, the biggest question that has been unanswered is how does the criminal justice system reduce the number of false confessions? The answer to that question is not an easy one. Interrogation is a complex process that has its pros and cons. As was stated before, a majority of the techniques used to obtain authentic confessions can also cause false confessions. With that said, however, there are several steps that can be taken to limit the number of false confessions in the future.

Video/Audio Recording

One of the simplest steps that can be taken to limit the impact of false confessions is to video or audio record (preferably both), all interrogations. At this point, there is no law or policy that requires all interrogations to be recorded. Although some organizations already mandate that interrogations be recorded, this must become a universal policy in the United States in order to limit injustices.

When interrogations are video/audio recorded, it helps to reduce the number of false confessions and protects innocent people in two fundamental ways. First, this process would deter law enforcement from using controversial interrogation techniques, such as the ones described earlier in this paper (Lassiter, 2010). The interrogators would be less likely to use techniques that could come under scrutiny during a trial. Although everyone would like to close a case through a confession, if they knew that what they were doing and saying was being documented they would be less likely to use techniques that could induce a false confession out
of fear that all of the work they did in order to obtain the confession would be wasted if the confession was deemed inadmissible in court. Secondly, juries and judges would be able to later review the interrogation in order to make a determination about the authenticity of a confession (Lassiter, 2010). As was discussed previously, when a defendant confesses, it is some of the most damning evidence that a prosecutor has against them. It is extremely likely that an individual that confessed, false or authentic, would be found guilty of that crime.

Video/audio recording will not completely eliminate occurrences of false confessions. This procedure, however, will allow for more transparency into how a suspect was treated and whether or not their confession was coerced. This change in policy will not correct the problem that exists regarding false confessions, but, it will offer more protection for the innocent.

Length of Interrogations

As was stated before, interrogations that have lead to 125 confirmed false confessions lasted on average 16.3 hours (Davis & Leo, 2006). The length of an interrogation is clearly influential on an individual’s mental state and how they perceive things. Individuals will eventually break down and make statements that may incriminate themselves after a lengthy and adversarial interrogation. At the present time, there is no statutory limit to the length of an interrogation. Theoretically, the police could interrogate a suspect for as long as they wanted to. A policy must be set in place to limit this abuse. There must be a policy which at least requires police to give a suspect a break after a certain period of time. Some law enforcement agencies use lengthy interrogations as a technique for “breaking down” the suspect, however, as has been shown, this tends to only create false confessions. In addition, the length of interrogations should be documented and be available to the judges and juries during a trial. This will once
again allow them to make a determination as to how authentic the confession is. Once again, even with these policies in place, it will not completely rid the criminal justice system of false confessions, however, it will offer more protections to the innocent.

*Post-Admission Narrative Analysis*

Another policy that would help determine the authenticity of a confession would be to conduct a post-admission narrative analysis. This is the process of comparing the suspect’s statement of why and how they committed a crime versus the actually known facts of a case (Davis & Leo, 2006). If the confession is authentic, they will be able to provide details of the crime that would not be publicly known or easily guessed (Davis & Leo, 2006). On the other hand, if the confession is false, there would be drastic differences between the information a suspect provided and what the police know from their evidence (Davis & Leo, 2006). A downfall of this procedure would be that the police could have contaminated the suspect. If they provided him with crucial information, they could feasibly provide details through a confession that would make it appear as though it is authentic.

*Other Strategies*

In addition to the strategies explained above, four other strategies have been identified which could potentially limit the number of false confessions obtained. First is to interrogate only suspects for whom there is enough evidence to support guilt (Davis & Leo, 2006). In order to obtain a false confession, the first step would be to identify an innocent suspect. If law enforcement does not have evidence to show probable cause to interrogate them, they should not be interrogated. Secondly, law enforcement agencies should be educated on interrogation strategies that are likely to create false confessions (Davis & Leo, 2006). One of the biggest
hurdles that have been identified in relation to false confessions is the lack of belief in them. Without having knowledge that they exist and the ways they are obtained, law enforcement is destined to continue using the same techniques and believe that all confessions are authentic. Third, practices known to induce false confessions should be avoided (Davis & Leo, 2006). Similar to the second strategy, if law enforcement officers do not understand the potential ways to create a false confession, they will continue to use practices that leave suspects vulnerable. This practice would be extremely difficult to enforce because as was stated earlier, the same techniques that create false confessions also are effective at inducing authentic ones. Forth, is to provide more education regarding the vulnerable individuals (e.g. mentally ill and youth) (Davis & Leo, 2006). This education would provide law enforcement with ways of treating these vulnerable suspects so as to not put innocent suspects in danger.

All of these recommendations could be effective at reducing false confessions. With that said, no single one or even a combination of them will completely rid the criminal justice system of false confessions. The best that can be hoped for is that there will soon be policies enacted to address the topic of false confessions. These recommendations are things that could be easily be instituted into any law enforcement organization. None of them would have an adverse impact on obtaining authentic confessions as long as the interrogators properly conduct their interviews and investigations. These recommendations should be in place solely to protect those who are innocent.

Conclusion

False confessions in today’s criminal justice system are real. They occur more often than individuals, even those in law enforcement, would think. The previous discussions regarding
how and why false confessions occur is quite revealing. Without having knowledge of the problem itself, no policies or laws can be put in place in order to correct it. The research into false confessions is truly in its infancy. Much more research needs to be conducted in order to achieve a full understanding of the problem.

With the large number of individuals being exonerated for crimes they did not commit, many of which falsely confessed to those crimes, the need for transparency of the interrogation process has never been more important. It is understandable that all of law enforcement’s “trade secrets” of interrogations cannot and should not be exposed to the entire public, however, these procedures should be made available to law makers and other individuals with influence over policy. It is important to keep in mind the word justice in the criminal justice system. If the system continues to persecute innocent individuals, justice is not being achieved. Not only will an injustice in the criminal justice system affect the specific individual or victim, it affects society as a whole because the true criminal is still out there, potentially committing additional illegal acts.

Future research should focus on ways to illicit pertinent information from suspects, while protecting those who are innocent. If the criminal justice system simply continues on a path of creating and subsequently accepting false confessions, no progress can ever be made. The criminal justice system should focus on adequately solving crimes rather than simply pressuring individuals into confessing to something they did not do and considering the case closed.
SECTION VII. REFERENCES


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