Recommended Interview and Interrogation Techniques to Deter False Confessions

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ABSTRACT

RECOMMENDED INTERVIEW AND INTERROGATION TECHNIQUES TO DETER FALSE CONFESSIONS

Purpose
The purpose of this research is to offer effective components for an ideal law enforcement interviewing and interrogating techniques to reduce false confessions. An examination of why people confess to crimes they did not commit, why do false confessions happen and how better interrogation techniques can be used to reduce the likelihood of false confessions is presented.

Methods
This research paper incorporates secondary research such as, statistics, scholarly articles, legal reviews, and other formal reports from interrogation experts and police research institutions. The data presented was selected based on studies of police interrogation techniques in the United States and abroad. This paper takes a closer look at current interrogation methods and statistics and how often these methods may lead to false confessions. Additional minimization and maximization methods are also reviewed to ascertain what can be done to reduce false confessions.

Findings
Based upon a review of previous studies, minimization and maximization techniques have the potential to lead to false confessions. The most popular interrogation method used in the United States is the Reid Technique, which uses minimization and maximization techniques. The research suggests that less coercive techniques, like the PEACE model used in the U.K. and
the WZ Non-Confrontational Method, are more accurate at obtaining a truthful confession. Research also found that other changes are needed, such as, special training for police that addresses the limit of human “lie detection”, videotaped police interrogations add protection for juvenile suspects, training for juveniles regarding their Miranda rights, required legal representation during all interview and interrogations, and legal reviews of a juvenile’s confession. Future research should focus on the ability to obtain truthful confessions with less deceptive methods and on other techniques, like WZ Non-Confrontational Method. Future research should also focus on studying the rate of false confessions and truthful confessions in more vulnerable populations, such as juveniles and suspects with mental health challenges.
ACKNOWLEDGEMENTS

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Cynthia M. Stevenson-Cooper

Under the Supervision of Dr. Susan Hilal, Professor UW-Platteville Criminal Justice Department
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>TITLE PAGE</th>
<th>ABSTRACT</th>
<th>ACKNOWLEDGEMENTS</th>
<th>CHAPTER 1: INTRODUCTION</th>
<th>CHAPTER 2: LITERATURE REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>i</td>
<td>ii</td>
<td>iv</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Statement of the Problem</td>
<td>Purpose</td>
<td>Significance of Study</td>
<td>Method of Approach</td>
<td>Contributions</td>
</tr>
<tr>
<td>1</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Overview of False Confessions</td>
<td>Historical Overview of Confessions</td>
<td>Who Falsely Confesses</td>
<td>The Eighth Amendment</td>
<td>Why Do People Confess Falsely</td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td>11</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>History of Police Interview and Interrogation Methods</td>
<td>Interview and Interrogation Techniques Used by Law Enforcement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>19</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Reid Technique ......................................................... 20
The PEACE Model .......................................................... 23
Kinesic Interview ............................................................ 24
WZ Non-Confrontational Method........................................ 25
Miranda ........................................................................... 26

CHAPTER 3: RECOMMENDATIONS, SUMMARY AND CONCLUSIONS .......... 28
CHAPTER 1: INTRODUCTION

Introduction and Statement of the Problem

A variety of interviews and interrogation techniques are used by law enforcement, intelligence agencies and military personnel around the world to elicit information. This information elicited can sometimes lead to a confession. However, not all confessions are true. False confessions are when a person admits guilt to a crime for which they are not responsible. Of all false confessions, 25% are due to police interrogations (Perillo & Kassin, 2011). A false confession is particularly problematic as confessions are common, potent, and persuasive (Kassin, 2017).

The techniques used in interviews and interrogations often include: The Reid Technique, Preparation and Planning, Engage and Explain Account, Closure and Evaluate (PEACE), and the Kinesic Interview (Orlando, 2014). Many of these techniques require law enforcement to take note of a suspect’s non-verbal cues. Extensive social science research has demonstrated that people are poor at making accurate judgments of truth and deception in general (Leo, 2013). Further, 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).

Previous research (Hogan, 2012) suggests that minimization and maximization techniques, such as The Reid Technique, may be perceived by a suspect as an expectation of leniency and a threat of harsher punishment, which can lead to false confessions.

At a theoretical level, cases of false confession are typically classified into three psychological types, referred to as “voluntary”, “coerced-compliant” and “coerced-internalized” (Gudjonsson & Sigurdsson, 1994). The person who voluntarily falsely confesses may want
notoriety for the crime. They may be unable to distinguish fantasy from facts or they have feelings of guilt. Feelings of guilt can lead a person to want to protect a relative, friend, or peer. A “coerced-compliant” type of false confession involves a suspect making self-incrimination admissions or a full confession for some immediate instrumental gain (Gudjonsson & Sigurdsson, 1994). The suspect fully knows or believes that he or she is innocent of the alleged crime (Gudjonsson & Sigurdsson, 1994). The reason for these types of confessions are to escape from the pressure being placed on them by the interrogator or interviewer. The suspect knows they are innocent but wants the interview to stop.

A “coerced-internalized” false confession involves the suspect coming to believe that he or she has committed the alleged crime, despite having no recollection of having committed it (Gudjonsson & Sigurdsson, 1994). This can be due to memory blackout or amnesia, a memory distrust syndrome. Also, the suspect may have memory of what happened but lose confidence during the interrogation and come to believe that they may have committed the crime they are being accused of.

It is well-documented police interview and interrogation techniques can be problematic (Johnson/Iowa Watch, 2020). While there is extensive empirical social psychological research literature (Kassin, 2017) explaining why police interrogators sometimes elicit false confessions from innocent suspects, additional research is needed as to why police interrogators sometimes contaminate the narratives of innocent false confessors. Further, age may be a factor in that juveniles are psychological different from adults, therefore techniques used on adults may not be as appropriate for juveniles and deserves further review.
Purpose of the Study

The purpose of this research is to offer effective components for an ideal law enforcement interviewing and interrogating techniques to reduce false confessions. An examination of why people confess to crimes they did not commit, why do false confessions happen and how better interrogation techniques can be used to reduce the likelihood of false confessions is presented.

Another avenue this research will explore is whether certain techniques, such as the Reid Technique, which is mainly used in the United States, should continue to be used in today’s criminal justice system to illicit information from a suspect. One of the nation’s largest police consulting firms, Wicklander-Zulawski & Associates, has decided to stop using The Reid Technique because of the risk of false confession (Hager, 2017).

Significance of the Study

Police have been systematically trained in interviews and interrogations in much the same way. It has been found that some techniques have flaws that lead to false information being obtained from a suspect. Training in interview and interrogation needs to be reviewed to determine which techniques are designed to elicit truthful information. While there has been some advancement by companies that train law enforcement on these techniques, there is more to be done. Many departments are still using techniques that elicit inaccurate information. The significance of this research is to provide law enforcement personnel with the recommendations for techniques that can elicit truthful information and lead to the right person being punished. Doing this could help improve the relationship with law enforcement and their communities. It will allow those groups who feel disenfranchised to know that law enforcement is trying to obtain the truth.
Method of Approach

This research paper will incorporate secondary research such as, statistics, scholarly articles, legal reviews, and other formal reports from interrogation experts and police research institutions. The data presented was selected based on studies of police interrogation techniques in the United States and abroad. This research paper will take a closer look at current interrogation methods and statistics and how often these methods lead to false confessions. Additional minimization and maximization methods will be reviewed to ascertain what can be done to reduce false confessions.

Contribution to the Field

The anticipated contribution of this research will recommend training for law enforcement in various areas. 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 (Gudjonsson & Pearse, 2011). This research will suggest non-confrontational methods, such as the WZ Non-Confrontational Method, while interviewing and interrogating juvenile suspects, videotaped police interrogations, special training for police that addresses the limits of human “lie detection”, training for juveniles regarding their Miranda rights, required legal representation during all interviews and interrogations, and legal reviews of a juvenile’s confession (Schatz, 2018).
CHAPTER 2: LITERATURE REVIEW

The following review is divided into eight sections. The first section will provide an overview of false confessions. The second section will give a historical overview of confessions. The third section will discuss the vulnerable populations that are more susceptible to false confessions. The fourth section will discuss the Eighth Amendment. The fifth section will discuss the reason why some suspects falsely confess. The sixth section will discuss the history of police interview and interrogation methods. The seventh section will discuss interview and interrogation techniques that are used by law enforcement. Finally, the eighth section will discuss the Miranda warning.

Overview of False Confessions

Experts are virtually unanimous in the view that the cases of proven false confessions represent only the tip of a large iceberg (Hirsch, 2014; Schatz). According to the National Registry of Exonerations (2020), at least 323 people have been exonerated from convictions in cases featuring confessions that were simply not true. Confessions offer a narrative that allows law enforcement, and society in general, to neatly resolve cases with apparent clarity and closure (Schatz, 2018). Due to most criminal cases being public, many false confessions are likely to go undetected. No one knows for certain how often false confessions occur. However, there is some data that can help provide the scope of false confessions. According to the National Registry of Exonerations (2020), 27 percent of people in the registry who were accused of homicide gave false confessions, and 81 percent of people with mental illness or intellectual disabilities did the same when they were accused of homicide (2020). Researchers and scientists are working to understand the psychology of why a person would confess to a crime that they did
not commit. Much of the research being conducted is changing the way law enforcement thinks about and conducts interviews and interrogations.

In many cases, suspects who confess to crimes they did not commit, are never convicted. In a classic 2004 study, Drizin and Leo identified 125 proven false confessions in the United States from 1971 through 2002 (Johnson/Iowa Watch, 2020). Of those proven false confessions, only one third of those cases were after there was a conviction. Many of these cases never made it to trial because their innocence was eventually proven.

It can be difficult to prove that a defendant who has confessed to a crime is now innocent. Few convictions based on false confessions are cleared by exoneration (Johnson/Iowa Watch, 2020). If a defendant is exonerated after falsely confessing, it is likely that there has been additional indisputable evidence, such as DNA. DNA is strong evidence against a false confession. Forty-two percent of exonerated defendants who had confessed were cleared by DNA tests, compared to only 21 percent of exonerees who had not confessed (Johnson/Iowa Watch, 2020).

During a previous study by Redlich (2004), it was found that false confessions were significantly longer into the interrogation than true confessions (as cited in Redlich, Kulish, & Steadman, 2011). Baldwin (1993) found that those suspects who presumably truly confessed, did so near the onset of the interrogation, but that, most false confessors initially deny guilt (as cited in Redlich et al, 2011).

There were more than 240 individuals proven innocent through DNA evidence in the United States between 1989 and 2011, when the first DNA-exoneration case occurred, and of those, between 15% and 20% involved false confessions to serious crimes, such as murder or
rape (Kassin, 2010). The DNA-exoneration cases focus almost exclusively on police-induced false confessions (Gudjonsson & Pearse, 2011). In terms of vulnerabilities, history of substance misuse and victimization are commonly associated with false confession among young people (Gudjonsson, Sigurdsson & Sigfusdottir, 2009). Young age, mental disorders, suggestibility, compliance, and manipulative police techniques are commonly through to be associated with false confessions (Kassin, 2010).

As of 2020, 375 people in the United States had been exonerated by DNA, including several who had served time on death row. False confessions by the defendant or someone else were a factor in at least 28% of these cases (Kassin, 2017). This sample has provided an invaluable resource for archival research into eyewitness misidentifications, false confessions, flawed forensic sciences, police or prosecutorial misconduct, and other problems (Garrett, 2011; Scheck, Neufeld, & Dwyer, 2000).

There is also the National Registry of Exonerations, housed at the University of California at Irvine, launched by law professor Samuel Gross and journalist Rob Warden (Kassin, 2017). The National Registry of Exonerations does not restrict itself to claims of resolvable DNA cases, but it has a broader sample of crimes and exonerations resolvable by all forms of new evidence (National Registry of Exonerations, 2015).

According to False Confessions (2020), there are cases were exculpatory DNA evidence do not help. For example, in the case of Juan Rivera, who was 19 years old and falsely confessed to the rape-murder of an 11-year-old girl in Lake County, Illinois. Rivera confessed multiple times to the crime and was wrongly convicted three times. Two of Rivera’s convictions were based on his confession though no physical evidence could link Rivera to the crime. Rivera said that his confession was coerced. Rivera’s confessions had multiple factual errors and he
was in a state of mental collapse. Rivera spent almost 20 years in prison before in 2011, the Illinois Appellate Court ruled that Rivera’s conviction was “unjustified and cannot stand” and dismissed the charges.

**Historical Overview of Confessions**

One of the first accounts to critically examine confessions occurred in 1908 when Harvard psychology professor Hugo Munsterberg published the book *On the Witness Stand: Essays in Psychology and Crime* (Kassin, 2017). Munsterberg told the story of a Chicago man who was convicted of murder based only on his confession to the police. He was not pleased with the confession or how it was taken. However, within one week of being convicted, the defendant was hanged for a crime that Munsterberg believes the defendant did not commit. Munsterberg fully grasped the commonsense potency of confession evidence in court, noting that “it would be inconceivable that any man who was innocent should claim the infamy of guilt”. Munsterberg also grasped that confessions were fallible. He speculated on the psychological causes of false confessions, using words such as **hope, fear, promises, threats, suggestion, cunning calculations, passive yielding, shock, fatigue, melancholia, auto-hypnosis, dissociation, and self-destructive despair**.

Munsterberg’s thoughts on the possibility of false confessions, would not be taken seriously for more than a half a century. Motivated most likely by the Supreme Court’s decision in Miranda, a small amount of psychologically oriented papers started to appear in the 1960’s (Kassin, 2017). An article titled “Inducing Belief in False Confessions” discussed a laboratory experiment showing that saying (induced confession) can lead to believing or (feelings of guilt). There were concerns among legal scholars and in the courts that police-induced confessions are both highly potent and fallible with, researchers in the 1980’s and 1990’s scrutinizing a range of
issues on both fronts (Kassin, 2017). In a review by Kassin (2017), four areas were highlighted as individualistic and overlying blocks of research. The first area, drawing on social psychological conducted mock jury studies, research showed that people did not sufficiently discount confessions even when it was legally and logically appropriate to do so. Having demonstrated the potency of confession evidence, legal scholars went on to critique the Reid Technique, which is an interrogation technique that relies heavily on trickery and deception.

Secondly, Kassin distinguished between maximization tactics (confronting the suspect with incriminating evidence and refusing to accept denials) and minimization tactics (offering sympathy and moral justification, which implies lesser culpability) that constituted the Reid Technique, demonstrating that promises of leniency are pragmatically implied to suspects even if not explicitly stated. A ethical laboratory paradigm was introduced for inducing innocent participants but not others as a way to test for factors that increase the diagnostic value of true versus false confession; they also introduced the phenomenology of innocence, a state of mind that can lead innocent people to waive all rights and paradoxically, at times, to confess. They extended early jury research, showing that mock jurors vote for conviction based on confessions they saw as coerced, even when told that the confession was obtained illegally and when DNA test cleared the confessor.

Kassin’s research found that Miranda v. Arizona inspired a third line of research, where the Supreme Court required police to inform anyone in custody of their rights to silence and counsel or to obtain a voluntary waiver of these rights. Research found that young people did not fully grasp their rights or how to use them. Research also showed that Miranda warnings across the country are highly variable in vocabulary and content. Situational stress can further limit comprehension and police will employ small but effective ways to obtain waivers; and
innocent people are more likely than others to forgo their rights. Questions were raised about juvenile justice questions and the methods used to interrogate children and adolescents, as well as the developmental risk of false confessions. A fourth line of relevant research to emerge in the 1980’s occurred in Great Britain, where some hotly disputed confession cases from the previous decade, such as the Guildford Four and the Birmingham Six, were discovered and sparked calls for reform. After new empirical research, reforms that limited police deception and required that all interrogations be recorded were enacted. Not long after this, a new way of interrogating suspects was developed through a joint effort of police officers, psychologists, and lawyers. The mnemonic PEACE describes the five elements of this approach: Preparation and Planning, Engage and Explain, Account, Closure and Evaluate. This model focuses more on information gathering than on gaining a confession.

Further, upon being influenced by the new developments in Great Britain, Gisli Gudjonsson and his colleagues oversaw a clinical focus on individual differences in vulnerability (as cited by Kassin, 2017). Due to Gudjonsson’s work on the Birmingham Six and Guildford Four cases, he introduced the term memory distrust syndrome to account for the cognitive changes that suspects often experience while giving false confessions. From this research, he developed the Gudjonsson Suggestibility Scales, to measure a person’s dispositional susceptibility to influence. The research highlighted the link between individual differences in the tendency to confess or resist confession. The last influence came from individual and aggregated case studies published by law professors, criminologists, and social scientists. This tradition originates with Borchard’s (1932) book, Convicting the Innocent. In a study specifically focused on false confessions, Leo and Ofshe (1998) describe 60 cases involving individuals who had confessed and whole innocence had been proven, highly probable, or
probable. Cassell (1999) challenged the “actual innocence” of some of these confessions, assessments that Leo and Ofshe (2001) defended in a rebuttal. A larger sample of 125 false confessions was compiled by Drizin and Leo (2004), which found that their sample contained a disproportionate number of juveniles (as cited in Kassin, 2017).

In summarizing the history of the scientific study of false confessions, Kassin (2017) highlights it has become a mature subdiscipline of psychology and has attracted researchers from all fields based upon the above multidisciplinary building blocks of research. The study of false confessions has attracted talented researchers from all branches of the field. This assessment is supported by a number of metrics: Division 41 of the American Psychological Association (APA), also known as the American Psychology-Law Society (AP-LS), published in 2010 a scientific review of “white paper” title “Police-Induced Confessions: Risk Factors and Recommendations” (Kassin, 2010) – only the second such article authorized and approved by AP-LS. In additional to Kassin (2017), a social psychologist, the authors were Steven Drizin, a law professor; Thomas Grisso, a child clinical psychologist; Gisli Gudjonsson, a clinical psychologist; Richard Leo, a criminologist and law professor; and Allison Redlich, a developmental psychologist.

**Who Falsely Confesses?**

Two groups of people are especially susceptible to false confessions: young suspects and those with mental disabilities (False Confessions, 2020). According to False Confessions (2020), of the 103 people with mental illness or intellectual disability who were exonerated, 72% falsely confessed. Of the 1,707 people without a reported disability who confessed, only 9% confessed falsely. Young suspects fared just as badly with forty percent of exonerees who were under 18 at the time of the crime falsely confessing, including 53 percent of 14 to 15-year-olds,
and 86 percent of the few who were 13 years old or younger. Only 7 percent of adult exonerees without reported mental disabilities falsely confessed.

The knowledge on false confessions has developed over the past two decades. Using a variety of methods, scholars have identified several situational and dispositional risk factors that increase the likelihood of individuals taking the blame for crimes they did not commit (Redlich, Kulish & Steadman, 2011). Persons with mental illness and mental retardation may have higher rates of confession, even though there is no concrete data (Redlich et al., 2011).

A risk factor for true and false confessions is mental impairment (Redlich et al., 2011). In previous studies examining self-reported false confessions, presence of mental health related factors has discriminated between those alleging and those not alleging false confessions (Redlich et al., 2011). For example, in comparison to those who do not report false confessions, self-reported false confessors have been found to score higher on measures of anxiety, depression, anger, extraversion, and psychoticism (Gudjonsson et al., 2006, 2004), as well as being more likely to have seen a mental health professional or taken psychiatric medications in the year prior (Gudjonsson et al., 2009). Most studies have not examined how specific types of mental illness do or do not contribute to the risk of false confessions (Redlich et al., 2011).

Redlich and his colleagues (2010) interviewed 1,249 offenders with mental health problems and found an overall 22% self-reported false confession rate (Relich, Summers & Hoover, 2010). Primary diagnosis was examined but did not emerge as a significant predictor of false admission. Increased risk was associated with more severe symptomatology. Those individuals with mental health issues are at a disadvantage in situations where officers are pressuring them to provide information. These individuals are disadvantaged at every step of the custodial interrogation, and they face a higher risk of falsely confessing (Schatz, 2018). In addition to the above
problems, the principal judicial protections against false confessions—assessing a suspect’s Miranda waiver and determining whether a confession was given voluntarily within the parameters of the Fourteenth Amendment’s Due Process Clause—provide little protection for the innocent with intellectual disabilities (Schatz, 2018).

According to Lieu (2013), research shows that false confessions occur with alarming frequency among juveniles. Children under 18 have led to an increase in wrongful convictions. Juveniles between 12 and 15 had a 69% rate of confessing to crimes they did not commit. Since an adolescent’s brain is not mature, they are more likely to act on impulse or to say anything to stop the interrogation, without fully considering the consequences of their actions.

In 2013, California Senator Lieu (2013), introduced Senate Bill 569, which would require law enforcement to videotape any custodial interrogation of a juvenile suspected of committing murder. Lieu pointed to the research of professors Drizin and Leo of the University of San Francisco School of Law suggesting that false confessions are often extracted from the most vulnerable suspects. Specifically, in a database of 125 proven false confessions compiled by Drizin and Leo, 33% involved confessions from juveniles, most of whom confessed to brutal murders.

Furthermore, Lieu (2013) stated that in a review of exonerations between 1989 and 2004, 42% of the cases of juvenile exonerees involved false confessions, compared with 13 percent of the cases of adult exonerees.

**The Eighth Amendment**

The best and most appropriate protection against interrogation torture that the Constitution provides is the Eighth Amendment’s prohibition against cruel and unusual punishment (Rumann,
2004). Analysis of this Amendment, the jurisprudence surrounding the Amendment, and its potential application to certain court cases will underscore this dramatic failure to protect liberty in the manner intended by the Framers of our Constitution (Rumann, 2004).

In the Eighth Amendment context, according to Spierer (2017), the Supreme Court has recognized that children are different from adults and must be treated differently in various areas of the criminal justice system. Society suffers a loss when any young person falsely confesses to a crime, especially due to misleading and coercive interview and interrogation methods. The Supreme Court’s recent Eighth Amendment logic in the People v. Elias V. (2015) must now be extended to the Fifth Amendment context to require that juveniles be treated differently in the interrogation room, as well.

Spierer (2017) states that juveniles are more susceptible than are adults to the coercion inherent in custodial interrogations, and so are more likely to falsely confess. Any interrogation technique that works under the presumption of guilt and relies on deception violates the Fifth Amendment privilege and is thus unconstitutional. The Supreme Court’s Eight Amendment jurisprudence has recognized that children are not the same as adults and need to be treated differently regarding punishment. These decisions have helped the Court to encourage treatment for children to be different throughout all phases of adjudication.

In J.D.B. v North Carolina (2011), the Court’s Eight Amendment principles applied not only to the post-trial sentencing phase, but also to the pre-trial interrogation phase (Spierer, 2017). Spierer (2017) further highlights this marked an important milestone in the Court’s juvenile justice jurisprudence, and it reshaped juvenile rights in criminal and delinquency cases that expanded past the Eight Amendment context. It did so by clarifying that a child’s age must be considered when determining whether the individual was in “custody” for Miranda purposes.
The Court ultimately recognized that children are particularly vulnerable to the intense custodial pressures and the inherently coercive techniques of police interrogations.
Table 1: Age and Mental Status of Exonerated Defendants Who Falsely Confess

AGE AND MENTAL STATUS OF EXONERATED DEFENDANTS WHO CONFESSIONED
NATIONAL REGISTRY OF EXONERATIONS
3/17/2020; N = 2,400

<table>
<thead>
<tr>
<th>AGE AND MENTAL STATUS OF THE EXONERATED DEFENDANTS</th>
<th>PROPORTION WHO FALSELY CONFESSIONED</th>
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<tbody>
<tr>
<td>Under 18 Years Old at Time of Crime (76/211)</td>
<td>36%</td>
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<tr>
<td>16 and 17-year-old (46/162)</td>
<td>28%</td>
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<tr>
<td>14 and 15 years old (24/42)</td>
<td>57%</td>
</tr>
<tr>
<td>Under 14 years old (6/7)</td>
<td>86%</td>
</tr>
<tr>
<td>18 Years or Older at time of Crime (216/2,189)</td>
<td>10%</td>
</tr>
<tr>
<td>Mental Illness or Intellectual Disability Reported (103/147)</td>
<td>70%</td>
</tr>
<tr>
<td>No Known Mental or Intellectual Disability (189/2,253)</td>
<td>8%</td>
</tr>
<tr>
<td>Adults Without Reported Mental Disabilities (138/2,073)</td>
<td>7%</td>
</tr>
<tr>
<td>ALL CASES (292/2,400)</td>
<td>12%</td>
</tr>
</tbody>
</table>

Reference: (False Confessions, 2020)
**Why do People Confess Falsely?**

Recent advances in DNA technology have shined a spotlight on thousands of innocent people wrongfully convicted for crimes they did not commit—many of whom had been induced to confess. The scientific study of false confessions, which helps to explain this phenomenon, has proved highly paradoxical (Kassin, 2017).

Confessing to crimes is usually not in the best interest of suspects, but nevertheless many do so (Redlich, Kulish & Steadman, 2011). Case studies show about 65% of suspects fully or partially confess to the police (Redlich, et al., 2011). After examining the reasons behind false confessions across six data collection sites, 65% claimed to have confessed to stop the questioning or to go home, 53% to protect the true perpetrator, 48% became of police pressure, and 26% because of reasons relating to internalization (i.e., they thought initially they had committed the crime).

There are factors that appear to be more common in false confessions than in true confessions, such as lengthy interrogations and the use of trickery and deceit (Kassin, 2010). During Redlich et al. 2011 study, they compared the aspects of the crime and police questioning in cases resulting in true versus false confessions. Differences did and did not emerge from this study. The type and severity of the crime did not significantly differ by true confession/false confession status. The overwhelming majority of identified, proven false confessions and wrongful convictions are for the serious and low base-rate crimes of murder and rape (Drizin & Leo, 2004). The people who studied these miscarriages of justice often posit the number identified to date seriously underestimates the actual number of false confessions or wrongful convictions (Redlich et al., 2011). Further, there is little reason to suspect that false confessions are exclusive to serious crimes, given that false confessions can theoretically occur for any crime.
and given that less serious crimes are far more prevalent than murder and rape (Redlich, et al., 2011).

**History of Police Interview and Interrogation Methods**

Though the U.S. justice system is founded on the assumption that all people are innocent until proven guilty, the core of the system is an accusatorial system. This system assumes that a suspect is guilty when interrogating. This naturally leads to interrogation methods that are accusatory in nature. In practice, suspects are presumed guilty even though they should be presumed innocent.

Police interviewing is best conceptualized as a dynamic and interactive social process, the outcome of which is influenced by a number of factors, such as: nature of the interrogation, age and motivation of the suspect, intelligence, mental health, personality, and access to legal advice (Gudjonsson & Pearse, 2011). The questioning goal in police interviewing witnesses, victims, or suspects, is to gather relevant information about a reported or suspected crime (Gudjonsson & Pearse, 2011).

In the early ages of police interrogation, physical torture was used to extract confessions to verify the interrogator’s theory of that person’s guilt (McInnis, 2020). Then in 1936, the United States Supreme Court ruled, in the case of Brown vs. Mississippi, confessions obtained through violence, such as beatings and hangings, could not be entered as evidence at trial. The court recognized that any human can be coerced to say anything, and as such, confessions by torture were unreliable (McInnis, 2020).

The supreme court’s ruling led law enforcement to take a softer and less obvious method of coercion during interrogation, called the third degree. The third degree left less-observable
physical marks of torture. Interrogations were conducted nonstop for days, with the use of physical harm that did not leave marks, such as sleep deprivation, bright lights, verbal abuse, and threats to the suspect and suspect’s family all commonplace (McInnis, 2020). The Reid Technique continued the tradition of being accusatory and suspects being presumed guilty.

When the Supreme Court made its decision on Miranda v. Arizona, psychological interrogations had replaced physical coercion (McInnis, 2020). However, this made it difficult to know whether confessions were voluntary or involuntary without marks of torture. The Court noted: the modern practice of in-custody interrogation is psychological rather than physically oriented. As stated before, this Court has recognized that coercion can be mental as well as physical, and that blood of the accused is not the only hallmark of an unconstitutional inquisition (McInnis, 2020).

**Interview and Interrogation Techniques Used by Law Enforcement**

There are multiple interview and interrogation techniques that are used by law enforcement around the world, to include: The Reid Technique, Preparation and Planning, Engage and Explain, Account, Closure and Evaluate (PEACE), and Kinesic Interview (Orlando, 2014). Though there has been empirical progress in documenting and classifying various interrogation techniques, very little is known about how police are trained in interrogation methods, how often they use various techniques, and whether they use those techniques differently with adults versus juvenile suspects (Cleary, Warner & Kovera, 2016).

A study (Cleary et al., 2016) was conducted with a diverse national sample of experienced American police officers and it was found that 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). More than half the sample reported being trained to use psychologically coercive techniques with both adults and juveniles. Most of these officers (91%) received informal “on the job” interrogation training. Findings showed that technique usage patterns indicate a spectrum of psychological intensity where information gathering approaches were used most frequently and high-pressure tactics less frequently.

The Reid Technique

The leading police interrogation technique in the U.S. is known as the Reid Technique. The first Reid Technique manual was published almost sixty years ago by Reid and Associates. There have been multiple revisions to the Reid Technique manuals over the years. Officers in all fifty states, as well as in Canada, use the Reid Technique when interrogating suspects. Further, even those police departments who use other interrogation manuals employ essentially the same tactics that are used in the Reid Technique (Spierer, 2017).

The Reid Technique requires that two things happen prior to the interrogation: The interrogator must completely isolate the suspect, and the interrogator must conduct a non-accusatory, informational interview, known as the Behavior Analysis Interview (BAI) (Spierer, 2017). The reason behind the BAI is to determine if the suspect is innocent of guilty, if the suspect is deemed guilty based on the BAI, then the interrogator proceeds with the next step (Spierer, 2017). The presumption of guilt is the cornerstone of the Reid Technique’s interrogation method (Spierer, 2017). According to Cleary, et al.’s (2016) study, Reid-trained officers (56%) were significantly more likely than other officer without Reid training to use pre-interrogation and manipulation techniques, with usage patterns being identical for adult and juvenile suspects.
The Reid Technique uses both minimization and maximization techniques. Prior research has indicated that these approaches (which each consist of a package of techniques) are associated with the elicitation of false confessions, suggesting perhaps that these approaches should be not be used (Horgan, 2012).

Minimization generally involves gentle, friendly approach in which the interrogator attempts to gain the suspect’s trust and minimize the seriousness of the offense (Horgan, 2012). These would include expressing sympathy, victim blaming, stressing the importance of cooperation, and providing face-saving excuses. Maximization, on the other hand, generally involves the use of harsher techniques or ‘scare tactics’ that are confrontational in nature and are designed to emphasize the seriousness of the situation (Horgan, 2012). Furthermore, Horgan (2012) expressed that these techniques would include expressing absolute certainty in the suspect’s guilt, shutting down denials, exaggerating the seriousness of the offense, and bluffing about evidence. For example, an interrogator might tell a suspect that officers found his fingerprints on the murder weapon (a maximization technique), and then justify the crime by saying that the suspect must have been provoked by the victim (a minimization technique).

Previous research suggest that minimization and maximization techniques manipulate the suspect’s perceptions of the consequences of confessing and are, therefore, often interpreted by the suspect as the equivalent of an expectation of leniency (if a confession is provided) or a threat of harsher punishment if no confession is given (Horgan, 2012). For a review of minimization and maximization techniques, see Table 2.
Table 2. Minimization and maximization techniques that vary and do not vary the perceived consequences of confession.

<table>
<thead>
<tr>
<th>Consequences</th>
<th>Minimization</th>
<th>Maximization</th>
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| Consequences          | • stress benefit of cooperation  
                        | • downplay consequences  
                        | • face-saving excuses minimize seriousness of offense                        | • exaggerate consequences  
                        | • co-conspirators against each other                                       |
| No Consequences       | • express sympathy  
                        | • assume friendly demeanor boost ego/use flattery  
                        | • appeal to conscience                                                     | • assume unfriendly demeanor  
                        | • firm belief in guilt                                                    |
The PEACE Model

Due to the Reid Technique associations with false confessions, several researchers have expressed concerns about the guilt-presumptive and confrontational aspects of the Reid Technique (Gudjonsson & Pearce, 2011). 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 (Gudjonsson & Pearce, 2011). Researchers have suggested that the Reid Technique be replaced by the Preparation and Planning, Engage and Explain, Account and Clarification, Closure, and Evaluation (PEACE model), which is routinely used in the United Kingdom (Gudjonsson & Pearce, 2011).

The development of a formal police interview training approach in the United Kingdom began in the early 1990’s following some landmark cases of miscarriage of justice involving confession evidence in which police interviewing and the courts came under scrutiny (Gudjonsson & Pearse, 2011). The authorities in England and Wales were quick to respond; they set up two Royal Commissions, which initiated fundamental changes in laws and procedures, including those governing police interviews (Gudjonsson & Pearse, 2011).

The PEACE model has been in continuous use in the United Kingdom since 1993 (Gudjonsson & Pearse, 2011). According to Gudjonsson and Pearse (2011), other countries have also employed the PEACE model, including New Zealand and Norway. The PEACE model was developed out of sound psychological principles – following valuable collaborative work between academics, psychologists, police practitioners, and lawyers – and was intended to consider vulnerabilities of some interviewees. The PEACE model is designed to reduce the number of false confessions during a police interrogation. The initial planning and preparation
stages require the interviewer to be well prepared for the interview, including possessing good knowledge about the case and the interviewee. The remaining phases involve an interview process, its closure, and its evaluation. The focus of the PEACE model is fairness, openness, workability, accountability, and fact (truth) finding rather than obtaining a confession. To reduce the potential of a false confession, leading questions, heavy pressure, psychological manipulation are avoided.

According to Gudjonsson and Pearce (2011), unlike in the U.S., U.K. police interviewers are not allowed to lie to suspects or present them with false evidence to obtain a confession, which reduces the potential for false confessions. An interview in England and Wales are electronically recorded. The PEACE model does produce a high rate of confessions. The extent to which the Reid technique and the PEACE model elicit false confessions is unknown. Unlike the Reid technique, the PEACE model is neither guilt presumptive nor overtly confrontational, it is widely assumed that it is less likely to elicit false confessions.

**Kinesic Interview**

According to National Association of Certified Fraud Examiners (2001), the Kinesic interview technique is used to attempt to read the interview subject’s reaction to stress. Kinesic is useful with law enforcement because there are often multiple indicators of deception that can be detected during the interview of a subject. There are several types of questions that can be used in the Kinesic interview to provide clues to the guilt or innocence of the interview subject. One of the questions used is a punishment question, where the interviewer casually discusses the punishment of the crime’s perpetrator with the subject, asking, for example, “What do you think should happen to the criminal?” The guilty person is more likely than the innocent person to recommend a more sympathetic approach to the criminal. Another type of question is the
“physical evidence” question, in which the interviewer will suggest that there is a piece of evidence that might link the interviewee to a crime. The interrogator might ask, “Is there any reason that your fingerprints might have been found near the crime scene?”. The guilty person will often attempt to cover for this evidence with another lie. Another question that could be asked, might be, “Do you think that this crime was even committed?”. The guilty person is likely to say, “no”. In the context of receiving answers to the aforementioned types of questions, the interviewer should carefully observe and subsequently analyze the interviewee’s self-initiated verbal statements, prompted verbal responses, and nonverbal behavior/body language (crying, head down, slumped in chair etc.) so as to assess the truthfulness of the interviewee’s statements about the crime. The Kinesic technique is often combined with other techniques.

**WZ Non-Confrontational Method**

In March 2017, Wicklander-Zulawski & Associates (2013), one of the largest consulting groups providing interrogation and interview training for law enforcement officers in the U.S., stopped instructing officers to use the Reid Method. The company cited the growing awareness of false confessions and wrongful convictions in determining that “the inherent risks and pitfalls of using a confrontational emotional approach to interrogation, combined with the improper use of that method, can lead to horrendous miscarriages of justice”. The understanding that the Reid Technique has led to false confessions being embraced by one of the major players in law enforcement interrogations- demands a brief discussion of how it works.

Wicklander-Zulawski & Associates (2012) developed the WZ Non-Confrontational Method. The WZ Non-Confrontational Method is a structured, conversational approach that often results in an admission (or multiple admissions) without the suspect ever making a denial
or protesting his innocence. Moreover, the resulting legally acceptable confession often includes information not revealed during the investigation.

According to Wicklander-Zulawski & Associates (2013), the WZ Non-Confrontational Method is perfect for the millennial generation. This technique creates an adult-adult relationship between the student and the interviewer, as opposed to confrontational techniques that create a parent-child relationship. This proven method is a more conversational interview approach that leads to fewer denials and objections and eliminates conflict between the subject and the interviewer. This technique will encourage a guilty subject to admit their involvement in a crime or malfeasance, rather than deny. Due to the limited denials, the development of the suspect’s admission and information about other acts is relatively seamless. The method is especially effective when the interviewer is seeking actionable information.

**Miranda Warning**

The Miranda warning was named from Miranda v. Arizona, the 1966 Supreme Court decision that required every person being arrested and interrogated be read the warnings. The purpose is to prohibit violence, torture, and prevent confessions that were unreliable or false.

Miranda was the culmination of 30 years of Supreme Court cases that were designed to protect criminal suspects from abuse in police interrogation. It is commonly known that all suspects have the right to remain silent, but some choose not to exercises this right. False confessions were a rare problem in 1966. However, fifty years later there have been hundreds of exonerations of innocent defendants who confessed to terrible crimes after they received Miranda warnings (False Confessions, 2020). Long before Miranda, the Supreme Court cautioned trial judges to closely scrutinize the impact of youthfulness and inexperience on the
voluntariness of juveniles’ confessions in Haley v. Ohio (1948) and in Gallegos v. Colorado (1962) (Feld, 2006).

The National Registry of Exonerations has collected data on 2,657 exonerations in the United States since 1989 (False Confessions, 2020). They include 227 cases of innocent men and women who confessed, 13 percent of the total, all after receiving Miranda warnings (at least according to the police). Nearly three quarters of those false confessions were in homicide cases (False Confessions, 2020).

According to Feld (2006), the United States Supreme Court has decided more cases involving the interrogation of juveniles than any other aspect of juvenile justice administration. Although it has cautioned trial judges to be especially sensitive to the effects of youthfulness and immaturity on a defendant’s ability to waive or to invoke their Miranda rights and to make voluntary statements, in 2006, the Court had not mandated any special procedural protections for immature suspects. Instead, it endorsed the adult waiver standard “-knowing, intelligent, and voluntary” under the “totality of the circumstances”—to gauge the validity of a juvenile’s waiver of Miranda rights.

Additionally, Feld (2006) asserts that developmental psychologists have examined adolescents’ adjudicative competence and their capacity to exercise or waive Miranda rights. These psychological studies strongly question whether juveniles possess the cognitive ability, maturity, and judgement necessary to exercise legal rights. The psychological research convincingly indicates that younger and mid-adolescent youths are not equal to adults in the interrogation room and that they require procedural protections beyond Miranda to protect them and to enable them to exercise their rights. However, the developmental psychological research
also suggests that youths sixteen and seventeen years of age appear to function on par with adults.

Conclusion

False confessions should be a major concern in the U.S. law enforcement community. Due to deceptive interview and interrogation techniques, juvenile and mentally ill suspects are the most vulnerable to false confessions. It is essential to focus on techniques that reduce the likelihood of false confessions by using less deceptive interview and interrogation techniques. More importantly, focusing on obtaining truthful confessions will lead to guilty suspects being punished.
CHAPTER 3: RECOMMENDATIONS, SUMMARY AND CONCLUSION

The criminal justice system is not a perfect system. There will be guilty people who will not be punished for their crimes and there will be innocent people who will be punished for crimes that they did not commit. However, there is an expectation that the U.S. criminal justice system is seeking to be fair and unbiased. After reviewing the literature, the findings have shown a variety of implications as highlighted below.

**Remove Reid Technique**

The law enforcement community should attempt to remove the Reid Technique and replace it with less intrusive techniques, such as the WZ Non-Confrontational Method or the PEACE Model. This requires the retraining of current law enforcement officers and changing the training of new law enforcement officers. Deceptive techniques should be replaced with preparation and familiarity with the evidence prior to the beginning of the interrogation. Deceptive techniques like the Reid Technique, which suggests that fabricating evidence to obtain a confession, can sometimes results in a person falsely confessing to a crime (Kebbell, 2008). Research shows that minimization and maximization techniques manipulate the suspect’s perceptions of the consequences of confessing and are, therefore, often interpreted by the suspect as the equivalent of an expectation of leniency (if a confession is provided) or a threat of harsher punishment, if no confession is provided (Hager, 2017).

**More Empirical Research**

More empirical research needs to be focused on studying the rate of false confessions and truthful confessions in more vulnerable populations, such as juveniles and suspects with mental illness. These vulnerable populations have a higher likelihood than adults to falsely confess...
during interrogations (Spierer, 2017). The research shows that children are particularly vulnerable to intense police interrogations (as cited in Spierer, 2017).

**Videotaped Interview and Interrogations**

Law enforcement increasingly records the interrogations of felony suspects, and courts increasingly permit expert testimony about interrogations and confessions (Hirsch, 2014). Suggestions for the future of law enforcement would be to videotape and record all interviews and interrogations (at local, state, and federal levels), to protect both the suspect and law enforcement. Electronic recording of police interviews, which provides invaluable transparency and accountability, is the single best protection against police-induced false confessions (Gudjonsson & Pearce, 2011).

According to Lieu (2013), videotaping of interrogations has emerged as a powerful innovation and fact-finding tool for the criminal justice system. The virtue of videotaping interrogations lies not only in its ability to help guard against false confessions, but also in its ability to develop the strongest evidence possibly to convict the guilty.

**Use Less Intrusive Methods**

Less intrusive methods, such as WZ Non-Confrontational Method have shown to be better at obtaining truthful confessions. Eliminating deceptive interrogation techniques and training law enforcement officers to have better interpersonal skills, will ensure that the interrogation will be more effective.
Understand Legal Rights

It is common in the U.S. that adult and juvenile suspects have the right to avoid self-incrimination and to have a lawyer present when detained by law enforcement. According to McLachlan, Roesch, and Douglas (2011), there is a growing body of literature suggesting that younger, less intellectually capable adolescents represent a highly vulnerable group of suspects who may be at increased risk of making poor decisions in the interrogation context. Courts, police, and clinicians who evaluate the validity of Miranda waivers should carefully consider a suspect’s age and mental capacity in discerning likely comprehension and appreciation of rights, and suggestibility as a suspect characteristic relevant to inquiries of the overall validity of Miranda waivers.

Training Police Officer

The majority of police officers receive informal training in interviewing and interrogation techniques. According to Cleary, Warner and Kovera (2016), officers are trained in a variety of different techniques ranging from comparatively benign pre-interrogation strategies to more psychologically coercive techniques. The overall research suggests that training in specific interrogation methods is strongly associated with usage and 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.

Summary and Conclusions

As this paper has highlighted, fundamental reforms in police interview and interrogations practice and policy need to be implemented in the United States. These reforms include prohibition of the use of interviews that use psychological manipulation and trickery, principally
the Reid Technique; more empirical research on less deceptive interview and interrogation techniques; mandatory video recording of all interviews from beginning to end; greater awareness of the risk of false confession and improved protection of vulnerable suspects, including juveniles and the mentally disordered; proper administration and understanding of suspects’ legal rights prior to interviews; and training of police officers about the risk of false confession (Gudjonsson & Pearse, 2011).

The above suggestions will no doubt be the source of contention for American police authorities. The Reid Technique has an extensive history, and its prescriptive nature and apparent effectiveness undoubtedly make it attractive (Gudjonsson & Pearse, 2011). However, the U.S. justice system should take more interest in reducing the likelihood of false confessions and this paper provides steps to do so.
References

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