ALL-DAY CONFERENCE

CHILD ABUSE EVIDENCE:
Perspectives from Law, Medicine, Psychology + Statistics

Friday, November 6 from 8:30 a.m. to 4:30 p.m.
University of Michigan Law School Honigman Auditorium, 100 Hutchins Hall
Police Interrogation, False Confessions, and Alleged Child Abuse Cases

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Outline

I. Two Alleged Child Abuse False Confession Cases
II. The Phenomenon of False Confession
III. The Impact of Confession Evidence
IV. The Causes of False Confession
V. V. Policy Reforms
I. Two Alleged Child Abuse False Confession Cases
Adrian Thomas
Adrian Thomas

- https://www.youtube.com/watch?v=N0Fuyrh0eWA
NGA Troung
Interrogation Excerpt

https://www.youtube.com/watch?v=I-E4CMX07Y0
II. The Phenomenon of False Confessions
The Data on False Confessions

**Real World Data**
- Individual Case Studies
- Aggregated Case Studies
- The DNA Exonerations
- The National Registry of Exonerations

**Laboratory Data**
- Experimental Induction of False Statements and Confessions
Case Studies
Multiple False Confessions
In the Same Case

The confessed attackers of the Central Park jogger. Others escaped apprehension. Steve Lopez (not shown) plea bargained to a lesser charge.

NORFOLK FOUR
A MISCARRIAGE OF JUSTICE
Aggregated Case Studies
Leo, Drizin and Emmerich  
(In Progress)

- 200 Proven False Confessions Since 2004
  - (1) No Crime Occurred
  - (2) Physical Impossibility
  - (3) Scientific Exclusion
  - (4) True Perpetrator Identified
DNA Exonerations

- N=330 DNA Exonerations since 1989
- 15-25% = False Confessions
DNA and Non-DNA Exonerations

The National Registry of Exonerations

- 1,700 Exonerations Since 1989
- 217 False Confessions
Numbers
III. The Impact of Confession Evidence

“We find the defendant guilty as sin.”

“We also find the defendant’s lawyer guilty by association.”
Survey Studies of Real, Potential and Mock Jurors

INTRODUCTION

Confessions are one of the most important types of evidence for solving crimes (Greenwood & Pressia, 1973). Because criminal suspects rarely spontaneously confess, however, police detectives regularly employ interrogation techniques to assist in elicit

crimes. Although there has been a rapid expansion in research on police interrogations and false confessions, little is known about the efficacy of potential jurors. Surveys have revealed that false confessions are a source of law enforcement, and researchers have identified the most common types of false confessions. However, the research literature is inconsistent in its findings and some studies have failed to find any evidence that false confessions are routinely employed in real criminal cases. This has raised concerns about the reliability and validity of confessions as a tool for obtaining evidence. The current study addresses these concerns by examining the role of confessions in obtaining evidence and determining their reliability and validity.
Types of Data

Archival/Documentary Studies

Laboratory Studies

Psychological Experiments
The Risk of Wrongful Conviction at Trial

- Leo & Ofshe (1998) N=60 73%
- Drizin & Leo (2004) N=125 81%
- Leo et al (In Progress) N=200 93%?
## Consequences of False Confessions: The System

<table>
<thead>
<tr>
<th>POLICE:</th>
<th>PROSECUTORS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Close Case, Ignore Contradictory Evidence,</td>
<td>Set Higher Bail, More and Higher Charges, Make</td>
</tr>
<tr>
<td>Refuse to Admit Error</td>
<td>Centerpiece of State’s Case</td>
</tr>
<tr>
<td>DEFENSE ATTORNEYS:</td>
<td>JURIES:</td>
</tr>
<tr>
<td>Presume Client’s Guilt, Pressure Client to</td>
<td>More Likely to Convict, Even if Confession Was</td>
</tr>
<tr>
<td>Plead Guilty</td>
<td>Coerced</td>
</tr>
<tr>
<td>JUDGES:</td>
<td>POST-CONVICTION:</td>
</tr>
<tr>
<td>Sentence Higher for Failure to Show Remorse</td>
<td>Law Almost Never Permits Appeals Based on Innocence</td>
</tr>
</tbody>
</table>

- Defendant Never Charged 10 (8%)
- Charges Dropped Pre-Trial 64 (51%)
- Defendant Pled Guilty 14 (11%)
- Defendant Acquitted 7 (6%)
- Defendant Convicted at Trial 30 (24%)
81% (30/37) False Confessors Who Went to Trial Were Convicted

14 Other False Confessors Took Plea Bargains (11% of Sample)

Thus, 85% (44/51) of the False Confessors Whose Cases Were Not Dismissed Pre-trial Were Convicted
Fate of False Confessors in the Criminal Process (N=168)

<table>
<thead>
<tr>
<th>Fate of False Confessor</th>
<th># People</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendant Never Charged</td>
<td>3</td>
<td>2%</td>
</tr>
<tr>
<td>Charges Dropped Pre-trial</td>
<td>80</td>
<td>48%</td>
</tr>
<tr>
<td>Defendant Acquitted</td>
<td>4</td>
<td>2%</td>
</tr>
<tr>
<td>Defendant Pled Guilty</td>
<td>28</td>
<td>17%</td>
</tr>
<tr>
<td>Defendant Convicted at Trial</td>
<td>53</td>
<td>32%</td>
</tr>
</tbody>
</table>
93% (53/57) False Confessors Who Went to Trial Were Convicted

28 Other False Confessors Took Plea Bargains (17% of Sample)

Thus, 95% (81/85) of the False Confessors Whose Cases Were Not Dismissed Pre-trial Were Convicted
IV. Causes: Three Errors that Lead to (Persuasive) False Confessions

- 1) Misclassification
- 2) Coercion
- 3) Contamination
1) Misclassification
Who Can Catch a Liar? 
Ekman & O’Sullivan (1991)

Table 2
Deception Accuracy Means and Standard Deviations in Observer Groups

<table>
<thead>
<tr>
<th>Observer group</th>
<th>M</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secret Service</td>
<td>64.12</td>
<td>14.8</td>
</tr>
<tr>
<td>Federal polygraphers</td>
<td>55.67</td>
<td>13.3</td>
</tr>
<tr>
<td>Robbery investigators</td>
<td>55.79</td>
<td>14.9</td>
</tr>
<tr>
<td>Judges</td>
<td>56.73</td>
<td>14.7</td>
</tr>
<tr>
<td>Psychiatrists</td>
<td>57.61</td>
<td>14.5</td>
</tr>
<tr>
<td>Special interest</td>
<td>55.34</td>
<td>15.8</td>
</tr>
<tr>
<td>College students</td>
<td>52.82</td>
<td>17.3</td>
</tr>
</tbody>
</table>
2) Coercion: The Psychology of Police Interrogation

- **Step 1**: Convince the suspect he is caught and denial is futile
- **Step 2**: Convince the suspect that confession is beneficial and the only way out
THE CONFRONTATION INTERROGATION TECHNIQUE

INTRODUCTION

Proven to be successful in situations where the guilt of the suspect is fairly certain.

It is employed after completion of administrative and humanitarian questions, and after obtaining a Miranda waiver.

It operates on the principle of - “You did it. We know you did it. We have overwhelming evidence to prove you did it. But the reason makes a difference. So why don’t you tell me about it?”

Although you can use this technique on virtually every type of suspect and psychological profile, you will not interrogate all suspects the same way.

Think of the Confrontation Interrogation Technique as an outline for an interrogation. The type of suspect and/or psychological profile will determine how you present each heading or component of the outline.
Step 1: Breaking Down Resistance

- Isolation
- Rapport-building
- Accusation
- Dominate/Monologue
- Signal expectation that suspect will talk
- Treat suspect’s guilt as an established fact
- Attack suspect’s denials
- Pressure and stress
- Time: No Limit
- Repetition
The False Evidence Ploy

- Types of Lies (EG’s)
  - Eyewitness evidence
  - Accomplice testimony
  - Physical and scientific evidence
  - Lie detection evidence

- Psychological effect
  - Basic psychological research
  - Specific research
  - False confession cases
Step 2: Motivating Suspect to Confess through Inducements

- They express a negotiation, deal, offer, benefit, a better future
- Inducements
  - Systemic benefits
  - Minimization
  - Offers of help
  - Promises and threats
- Scenarios or “Themes”
- Good choice vs. Bad choice
Scenarios: Examples

- Homicide: Good Scenarios
  - Accident
  - Provocation
  - Self-Defense

- Homicide: Bad Scenarios
  - Intentional
  - Pre-meditated murder

- Pragmatic Implication
Laboratory Studies
Russano Et. Al. (2005)

- Experimental Study
- Cheating Paradigm
- Diagnosticity
  - Ratio of True to False Confession
- Minimization
- Promises & Threats
<table>
<thead>
<tr>
<th>Condition</th>
<th>True Confessions</th>
<th>False Confessions</th>
<th>Diagnosticity</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Tactic</td>
<td>46%</td>
<td>6%</td>
<td>7.67</td>
</tr>
<tr>
<td>Deal</td>
<td>72%</td>
<td>14%</td>
<td>5.14</td>
</tr>
<tr>
<td>Minimization</td>
<td>81%</td>
<td>18%</td>
<td>4.50</td>
</tr>
<tr>
<td>Minimization +</td>
<td>87%</td>
<td>43%</td>
<td>2.02</td>
</tr>
<tr>
<td>Deal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Condition</td>
<td>True Confession</td>
<td>False Confession</td>
<td>Diagnostic value</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Non-coercive interview</td>
<td>.96</td>
<td>.03</td>
<td>32.00</td>
</tr>
<tr>
<td>Minimization</td>
<td>.98</td>
<td>.22</td>
<td>4.45</td>
</tr>
<tr>
<td>Maximization</td>
<td>.92</td>
<td>.11</td>
<td>8.36</td>
</tr>
<tr>
<td>Minimization + Maximization</td>
<td>.73</td>
<td>.43</td>
<td>1.70</td>
</tr>
</tbody>
</table>
Situational Risk Factors for False Confession

- Lengthy Interrogation
- False Evidence Ploys
- Minimization
- Implied Promises and Threats
Individual Vulnerabilities

- Juveniles
  - Especially Under 15
- Mentally handicapped or impaired
- Some personalities
  - Highly suggestible
  - Highly compliant
- Mental Illness
C. Contamination

- Feeding suspects Non-public crime Facts
- Creates problem of Misleading Special Knowledge
- False confessions appear authentic
Contamination: The Brandon Garrett Study (2010)
Example: Bruce Godschalk

- The assailant had been outside the bedroom window watching the victim
- That the victim had been reading a magazine while she was lying in bed
- That there was a light next to her bed, which was on, allowing the victim to see in
- That prior to having sex the assailant removed the victim’s tampon and tossed it to the side
V. Possible Policy Reforms

- Mandatory Electronic Recording
- Improved Police Training
- Changing the Law
  - Probable Cause (to interrogate) requirements
  - Regulating interrogation techniques
  - Regulating reliability of confession evidence
- Special Protections for the Vulnerable
- Expert Witness Testimony
- Cautionary Jury Instructions
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