



Psychiatry & Behavioral Sciences Section – 2007

I24 A Critical Review of the False Confessions Literature

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The goal of this presentation is to feature a critical review of the literature regarding false confessions. The presentation will address four questions. These questions are: How often do false confessions occur; what are the types of false confession; what interrogation tactics are believed to produce false confessions; and how can false confessions be identified? Answering these questions will help attendees gain a better understanding of the false confession phenomena and what can be known and can be done about it.

This presentation will impact the forensic community and/or humanity by presenting a critical review of the literature, the forensic community will have a greater understanding of both the phenomena of false confessions and what the limitations of knowledge are.

Identifying how often false confessions occur is difficult. Some of the reasons for this are the difficulty in establishing the actual guilt or innocence of suspects in criminal cases due to a lack of direct evidence, and a lack of knowledge about how many interrogations are conducted each year. Additionally, most estimates of the occurrence of false confessions utilize cases of wrongful convictions to produce estimates of the rate of false confessions. This adds the difficulties of estimating how often wrongful convictions occur and what proportion of wrongful convictions are caused, at least in part, by false confessions. Those who have attempted to estimate the occurrence of false confessions that led to wrongful convictions have arrived at estimates that suggest that false confessions are rare, occurring in less than .04% of all FBI index crime convictions. It should also be noted that some laboratory studies have produced false confessions at rates of up to 100% under certain conditions.

Three types of false confessions are generally recognized. These are voluntary, internalized, and compliant false confessions. Voluntary false confessions occur when a person confesses to a crime without being interrogated by the police. Several possible causes for this type of false confession have been suggested. Among these are a desire for notoriety, a need to relieve guilt generated by other transgressions, an inability to distinguish fantasy from reality, a desire to protect the guilty party, and a desire for revenge. Internalized false confessions occur when a suspect is interrogated in such a way that he or she comes to believe that they may have actually committed a crime when he or she did not in fact. A three-step process is believed to produce internalized false confessions. In the first step, the suspect's confidence in his or her memory is attacked. During the second step, the interrogator suggests a reason why the suspect may not remember committing the crime in question, and in the final step, the interrogator works with the suspect to produce a narrative of the crime. Compliant false confessions occur when a suspect confesses to a crime due to interrogation but does not believe that he or she actually committed the crime. A two step model has been proposed to explain this phenomenon. During the first step, the interrogator convinces the suspect that the situation is hopeless and that the suspect will be sanctioned for committing the crime. In the second step, the interrogator gives the suspect inducements that are designed to convince the suspect that the benefits of confession outweigh the costs of not confessing.

The tactics that are believed to produce false confessions can be divided into two categories. The first consists of tactics that have been identified by the courts as violating the voluntariness standard for the admission of a confession. These tactics include explicit threats of punishment or promises of leniency, physical abuse, interrogations that are extremely long in duration, and the deprivation of sleep or food. The second category consists of those tactics that false confession researchers believe cause false confessions. Chief among these are the use of false evidence and attempts to minimize the perceived seriousness of an offence. While a few experiments have suggested that these tactics may produce false confessions, these experiments have generally not been replicated, and the few replications that have been done have produced inconsistent results. Additionally, the results of these experiments have often been inappropriately generalized between the types of false confessions. To add to these limitations, research into actual cases of false confessions that produced wrongful convictions suggests that is the tactics that have been identified by courts and not those that have been identified by researchers that, in and of themselves, produce false confessions under field conditions.

There is general agreement about how false confessions can be identified. Interrogations should be recorded, and confessions should be corroborated by comparing them to the facts of the case. Recording is necessary because it allows the interrogation to be reviewed to ensure that the facts of



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the case were not (accidentally or intentionally) leaked to the suspect during the interrogation process. Research has also generally indicated that recording does not reduce the rate at which suspects confess or how often an interrogation is admitted into evidence in court proceedings.

False Confessions, Interviewing, Interrogation