

False Confessions: Causes and Recommendations for Prevention

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False Confessions: Causes and Recommendations for Prevention

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Abstract

This paper examines the causes of false confessions and gives recommendations for ways to reduce false confessions. Innocent people sometimes make false confessions due to many contributing factors. Factors that can contribute to a false confession include police coercion, age, interrogation techniques, and mental disabilities. False confessions have a major negative impact on the criminal justice system, and everyone involved. False confessions lead to innocent people being wrongfully convicted. With DNA evidence DNA exonerations have brought greater attention to the laws and practices concerning confession evidence. This paper will explore the methods used to obtain false confessions and how to reduce false confessions from occurring.

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Introduction

Statement of the Problem

False confessions have a major negative impact on the criminal justice system. This is due to the fact that false confessions are the cause for numerous wrongful convictions and those false confessions have put innocent people behind bars (Kassin et al., 2010). According to the Innocence Project (2011), in approximately 25% of the wrongful convictions overturned with DNA evidence, the defendants made false confessions to law enforcement officials. The damage done to the victim, their family, judges, investigators and individuals involved can be devastating (Irazola, Williamson, Stricker, & Niedzwiecki 2014). When false confessors have pled not guilty and proceeded to trial, the jury conviction rates have ranged from 73% (Leo & Ofshe, 1998) to 81% (Drizin & Leo, 2004). This shows how powerful a false confession can be in the criminal justice system.

It is extremely hard for jurors to understand why an individual would admit to committing a crime they did not do. It can put an innocent person behind bars and cost millions of dollars in taxpayer money. An investigation conducted by the Better Government Association (BGA) and the Center on Wrongful Convictions (CWC) reveals the wrongful convictions of 85 men and women for violent crimes in the state of Illinois has cost taxpayers over \$214 million (Anyaso, 2011). It is therefore very important to understand the root causes of false confessions to help prevent this injustice from occurring in the future.

Purpose of the Study

The purpose of this study is to define the causes of why individuals give false confessions and provide effective recommendations to reduce false confessions. Law enforcement fails to

prevent false confessions in today's criminal justice system. Since 1989, over 300 individuals have been exonerated of crimes they were convicted of but did not commit and many of those were from false confessions (The Innocence Project, 2018). There are many factors that contribute to an individual admitting to a crime they did not commit. Causes of false confessions include intellectual disability, sleep deprivation, adolescence, interrogation methods, and coercion by law enforcement (Kassin et al., 2010). A laboratory experiment by Kassin and Kiechel (1996) demonstrated the coercion error by finding that the presentation of false evidence could lead individuals to confess to an act they did not commit (Kassin & Kiechel 1996). The investigation by the Better Government Association (BGA) and the Center on Wrongful Convictions (CWC) revealed that there was alleged government misconduct or error in 81 out of the 85 cases, and false confessions occurred in 33 out of 85 cases (Anyaso, 2011). It is important to educate individuals on why false confessions happen so they can prevent them in the future. This paper will also offer suggestions for policy changes to reduce innocent individuals from being convicted.

Contribution to the Field

This paper will serve as a guide for reducing false confessions and educational resource. A guide of recommendations to follow for interrogation procedures to reduce false confessions will be discussed. Currently it is not mandatory for all interrogations to be audio and video recorded. For example, according to the National Association of Criminal Defense Lawyers (NACDL) (2019), Arizona has no statute or court rule requiring recording of custodial interrogations, but Alaska has a Supreme Court ruling requiring recording of custodial interrogations (NACDL, 2019). Audio and video recordings of interrogations vary from state to state. To prevent false confession the entire interrogation should be audio and video recorded but

at minimum audio recorded. Every interrogation should be electronically recorded to create a record of the event.

Significance or Implications of the Study

To reduce false confessions all interrogations should be audio and video recorded. Audio recordings have been shown to reduce false confessions (Jared 2015). This transparency with audio and video recording allows for safeguards for the suspect and the police if they are accused of using illegal tactics. Audio recording at minimum should take place for all interrogations that occur in a place of detention by law enforcement of a person of suspect. It is recommended an electronic and physical record be made for every interrogation by a law enforcement agency.

Anticipated Outcomes

It is anticipated that no single recommendation will completely eliminate false confessions. It will take a combination of recommendations, laws, and best practices to effectively reduce the number of false confessions in the criminal justice system. The recommendations can easily be implemented into any law enforcement organization with minimal impact to the quality of the interrogation. The recommendations are in place to protect the innocents and keep the integrity of the criminal justice system.

Literature Review

The review of the literature is divided into four sections. The first section looks at the scope of the problem and defines false confessions. The second section looks at the different types of false confessions and the interrogations techniques used that cause false confessions. The third section looks at the legal aspects of false confessions and the impact of false confessions at trial. And the fourth section looks at the individuals that are affected by false confessions and the various methods that lead to false confessions.

Definition

To understand false confessions the definition of what a confession is must be identified. According to Oxford dictionary (2019), a confession is a formal statement admitting that one is guilty of a crime. This is very important to understand when determining the extent of the problem with false confessions in the criminal justice system. The process to a false confession begins when an innocent individual is targeted or suspected of a crime. When an individual makes a false confession, they are admitting to a crime that they did not do. There are a multitude of reasons why this happens which will be discussed in this paper. Innocent individuals are presumed guilty after a confession is made. Confessions are very powerful and once one is made it makes it extremely difficult to analyze evidence or prove their innocence afterwards.

Scope of the Problem

The damage of a false confession can be life altering to the innocent individual and cause insurmountable damage to the criminal justice system. According to Gutman & Sun (2019), state and municipal governments have paid out more than \$2.2 billion in compensation for wrongful imprisonment and \$1.7 billion in judgments and settlements in civil lawsuits. The exonerees on average spend more than 8 years 10 months in prison (The National Registry of Exonerations, 2019b). It is difficult to grasp the magnitude of the problem and injustice. These are innocent individuals that have spent years in prison for crimes they did not commit and proven to be innocent years later.

As previously mentioned Since 1989, over 300 individuals have been exonerated of crimes they were convicted of but did not commit which many of them were from false confessions (The Innocence Project, 2018). According to the Innocence Project (2018) 130 DNA exonerees were wrongfully convicted for murders and 62 percent of these cases involved false confessions. DNA exonerations have revealed multiple problems in the way confession evidence

is handled. According to Kassin (2008), police cannot accurately distinguish between a truthful individual and liar, young and mentally impaired individuals are more vulnerable, and judges trust confession evidence despite how it was been obtained.

In 2018, there were 19 exonerations that involved false confessions and all but two were for murder (The National Registry of Exonerations, 2019a). Several of the cases involved the now retired Chicago Detective Reynaldo Guevara. Guevara's misconduct and abuse resulted in 14 exonerations. Guevara and former Chicago Police Lieutenant Jon Burge have the most convictions that later resulted in exonerations based on coerced confessions (The National Registry of Exonerations, 2019a). Anthony Jakes was exonerated in 2018, after being falsely convicted due to the misconduct of former Chicago Police Lt. Jon Burge and his detectives. He was wrongly convicted due to false confessions coerced through torture from Burge and his detectives. The detective working on the case, Michael Kill kicked and beat Jakes which lead to him making the false claim of being a lookout when Arnold Day fatally shot Rafael Garcia during an attempted robbery in Chicago. Jakes was sentenced to 40 years in prison. It was not until the Illinois Torture Inquiry and Relief Commission investigated claims of misconduct by Burge and his detectives where they found credible evidence that Kill in fact abused Jakes. Kill had been previously accused of abusing suspects in 19 other stating which included the torturing of suspects, using electric shocks, and putting guns in their mouths. In April 2018, Jakes conviction was vacated and dismissed (National Registry of Exonerations, 2019a). It is extremely unfortunate that an individual has to suffer and have their life taken from them for something they had no involvement in. There are thousands of documented exonerations but there is no way to quantify the exact number of cases in which a false confession has occurred in

them. Many times, law enforcement interrogations that lead to false confessions are not being audio or video recorded.

Types of False Confessions

There are many different types of false confessions but Kassin and Wrightsman (1985) have identified three main types of false confessions. The three different types of false confessions are voluntary, coerced-compliant, and coerced-internalized. A voluntary false confession is a self-incriminating statement that is offered without external pressure from law enforcement or interrogator. Coerced-compliant false confessions occur when a suspect confesses to escape or avoid torture, threats, an aversive interrogation, or to gain a promised or implied reward. Coerced-internalized false confessions are those in which an innocent person may be sleep-deprived, confused, and subjected to a highly suggestive interrogation actually comes to believe that he or she committed the crime (Kassin and Wrightsman, 1985). Police-induced false confessions which according to Kassin and Wrightsman (1985) can be broken down into compliant and internalized confessions.

Compliant confessions involve the interviewee not being able to cope with the interrogative pressures and gives a false confession to escape the immediate stress of the situation. Internalized false confessions are more psychologically complicated and result from manipulation of the interviewee's belief in their involvement in the crime (Gudjonsson & Pearse, (2011). These two types of police-induced false confessions are results from errors. There are three types of errors - misclassification, coercion error, and contamination error. Misclassification error occurs when law enforcement mistakenly classifies an innocent person as being a guilty suspect. Coercion error involves applying coercive tactics such as threats and or

inducements for an individual to confess. The last type of error is contamination error which involves the police or interrogator deliberately or inadvertently providing the suspect with crime related details that is then used in court as knowledge that must have come from the actual offender (Gudjonsson & Pearse, 2011).

The Victims of False Confessions

Kassin (2016) affirms that many people have been victims of false confessions and some are exonerated by DNA evidence as well as non-DNA evidence. The understanding of many people when it comes to false confessions is limited because they lack knowledge of the interrogation process that results in the admission of guilt. Turner (2019) builds on this and ascertains that police in the United States have for a long time used false confessions, which can either be compliant or internalized, to close cases. In a compliant false confession, an individual confesses to either escape a bad situation or to avoid a real or even an implied threat that may be orchestrated during the interrogation.

Internalized false confessions occur when interrogators make victims to believe that they are in fact guilty of the crime they are accused of committing (Kassin et al., 2010). Interrogators have over time used the assumption that innocent people would never confess to crimes they did not commit. Additionally, the pressure to close cases prompts the police to use different techniques to attract the admission of guilt. The most common reasons why people confess during an interrogation without committing a crime include mental illness and lack of understanding due to their age.

Mental Disability and/or Intellectual Factors

A large knowledge-based has surfaced indicating that there are many false confessions that are as a result of mental disabilities and that it is difficult to obtain an accurate rate of false

admissions in the United States. First, interrogations are mostly adversarial because in most cases, the police believe that an individual commits a crime making them guilt presumptive (Redlich, Summers & Hoover, 2010). Individuals with mental illness have a limited understanding of constitutional rights such as the right to silence and counsel. They therefore lack the capacity to weigh the consequences of waiving their rights due to the limited intellectual capacity. Moreover, police interrogations in the United States has been influenced by political, historical as well as contextual factors including the third-degree practices of the past (Kassin et al., 2010). While the police are no longer allowed to use physical as well as mental pain to ensure a confession is made, individuals with mental disabilities are highly vulnerable to any form of pressure during an interrogation.

Scott-Hayward (2007) acknowledges that mentally ill individuals react differently to the pressure that comes from police during an interrogation such as physical custody and isolation. In cases when police exploit the psychology of inevitability on a mentally disabled person, it becomes increasingly easy for the victim to confess with the aim of being relieved from the pressure. While some individuals may have a clear recollection of the events, a coerced confession results from psychological torture they receive. Additionally, studies show that mentally disabled individuals and those with reduced intellectual capacity are more likely to be arrested, detained as well as being imprisoned after false confessions (Redlich, Summers & Hoover, 2010). Such individuals have the desire to stop the interrogation or even get out of jail and their only way out is through a confession. Interrogators should, therefore, learn and understand the consequences of putting pressure on a mentally disabled person with the intent of obtaining a confession. In the case of Cathy Woods, she spent 35 years in prison for murder of a Reno college student in 1976. Woods suffered from schizophrenia and was in a mental hospital

when she confessed to the crime during a police interrogation. Even though she recanted the confession, she was convicted and sentenced to life in prison. DNA testing proved her innocence and matched the murder to Rodney Halbower (The Innocence Project, 2019a).

Age Considerations

Adolescence is a period where cognitive flexibilities, as well as self-consciousness, are not well structured and their ability to effectively participate in any criminal proceeding is blurred. Researchers assert that such individuals are filled with emotions as well as uncertainty and when faced with a crime (Luna, 2017). Juveniles do not fully understand their rights during an interrogation and their comprehension of the consequences of their answers is highly limited. Juveniles may therefore admit that they committed a crime while the truth is that the interrogators pressured them to believing it.

A commonly cited case is that of a female jogger who was beaten and raped in Central Park, New York City, in 1989. Although five teenagers gave detailed videotaped confessions to the crime, it was later discovered that they did so under extreme pressure from interrogators and they simply wanted the whole process to stop (Luna, 2017). After extended periods of police interrogation, the defendants ages 14 to 16 gave videotaped confessions. The confessions were presented as evidence, even though the statements were very different in the details surrounding the incident. The time, location, and details of what happened were different from each individual. All five teenagers were convicted of charges despite the inconsistencies in the confessions and evidence against them. Years have passed until in 2002, when Matias Reyes, who was imprisoned for murder and rape, and confessed that he alone was responsible for the attack in Central Park. The evidence from the crime was sent in for DNA testing and matched Reyes. On December 19, 2002, the Manhattan district attorney overturned the convictions of all

five men. In 2014, they settled with the city for \$41 million (The Innocence Project, 2019b). The police used coercion tactics and took advantage of their youth. They were extremely vulnerable to false confessions as juveniles and those confessions were used against them to send them to prison for years.

Interrogation Techniques

Individuals including judges, jurors, and law enforcement officials find it extremely difficult to understand why an individual would make a false confession. False confessions occur after various interrogation techniques are applied to the suspect. The consequences can be dire, but interrogators capitalize on these coercive interrogation strategies.

Sleep deprivation.

One of those strategies is sleep deprivation. Sleep deprivation impairs cognitive skills, reduces inhibitory control which leads to people making riskier decisions, and interferes with an individual's ability to anticipate the consequences of their actions (Frenda, Berkowitz, Loftus, & Fenn, 2016). Research has found that a majority of false confessions occurred following interrogations that lasted more than 12 hours (Frenda, Berkowitz, Loftus, & Fenn, 2016). It looks to be common practice to interrogate individuals that are sleep-deprived for long periods of time. This consistently provides individuals that are more likely to make a false confession when being interrogated or questioned. In a study conducted by Fenn and Loftus, a psychologist at the University of California a direct correlation between sleep deprivation and false confessions were shown. There were 88 Michigan State students to take part in an experiment (Bohannon, 2016). According to Frenda, Berkowitz, Loftus, and Fenn (2016), participants in this study completed computer tasks during multiple sessions and repeatedly received warnings that pressing the "Escape" key on their keyboard would cause the loss of study data. Upon completion of their final session, participants either slept all night in laboratory bedrooms or

remained awake all night. During the following morning all participants were asked to sign a statement, which summarized their activities in the laboratory and falsely alleged that they pressed the Escape key during an earlier session. After a single request, the odds of signing were 4.5 times higher for the sleep-deprived participants than for the rested participants (Frenda, Berkowitz, Loftus, & Fenn, 2016).

Depriving a suspect of sleep may compromise the reliability of the information obtained in an interrogation.

Police coercion.

In 1966, the U.S. Supreme Court decided on *Miranda v. Arizona*, granting suspects constitutional protections designed to fight against abusive police interrogation practices. Officers are now required to give the Miranda warning before they start questioning and may only continue questioning if that suspect has waived their rights. In some cases, despite being given their Miranda warning, many suspects agree to speak with law enforcement without a lawyer present and confess to crimes they did not commit. This occurs as a result of the deceptive interrogation practices, mental stress of interrogation, or due to a lack of understanding on the part of the suspect (Gross & Possley, 2016). After the Miranda decision was made more modern or psychological methods of interrogations formed which included isolation, deception, and manipulation. Historically police officers and interrogators used torture, violence, and threats of death to obtain confessions from suspects (Gross & Possley, 2016).

Kassin, as discussed in Chapman (2013), describes modern police interrogation as a psychological process that is broken down into three components. The first component describes isolation as a means to increase the suspect's anxiety. The second component is confrontation where the interrogator accuses the suspect of the crime using real or fictitious evidence to support the accusation. The third component is minimization, where the investigator gives

sympathy and provides a moral justification for the crime which leads the suspect to expect leniency upon confession. These tactics of isolation, confrontation, and minimization are currently used in police interrogations to obtain confessions (Chapman, 2013).

Police are trained to overcome denials and elicit confessions, as a key part of the investigation process. Police use numerous techniques that become the center of analysis for false confessions. Police officers often deal with the pressures to obtain confessions from suspects which sometimes resort to coercive interrogation tactics which have the potential to lead to false confessions (Chapman, 2013). One of the most influential tools law enforcement and interrogators have is their ability to lie to suspect. Law enforcement is permitted to confront suspects with eyewitnesses, DNA, videotapes or fingerprints that help to establish guilt. According to Chapman (2013), these interrogation tactics are likely to make the suspect believe that he/she now is presumed guilty.

Polygraph examinations.

Polygraph examinations are used throughout the government, law enforcement agencies, legal community and the private sector. In the government and law enforcement agencies it is used for criminal cases and pre-employment screening. According to the U.S. Department of Justice Criminal Resource Manuel (2019), the term polygraph refers to “an instrument that records continuously and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.” It for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual (U.S. Department of Justice Criminal Resource Manuel, 2019). Typically, a polygraph examination will include a pre-test interview, a chart collection phase, and a test data analysis. If the examinee fails the

polygraph exam, it can then lead to the post-test or interrogation phase. Polygraph examination validity and results have been debated since its inception. The process is intimidating to most individuals as the subject of the test is told to sit motionless in a chair with rubber straps and electrodes attached to their body.

In a survey conducted by the American Polygraph Association of 626 police agencies using polygraphs to screen applicants found that approximately 25% of the persons tested are disqualified from police employment based on the information developed during polygraph testing (American Polygraph Association, 2019). The confessions obtained during the interrogation phase of a polygraph examinations can sometimes be false due to the stress caused by the experience. Kassin (2001) describes the case of 18-year-old Peter Reilly, who found his mother had been murdered in their home and immediately called the police. Reilly was then the main suspect in the case and despite his mental and emotional state he was interrogated 24 hours and administered a polygraph examination. Reilly failed the polygraph exam which to the interrogators indicated that he murdered his mother. He provided to them that he had no memory of what happened. Transcripts of the interrogation session revealed that Reilly initially denied the crime but through interrogation and self-doubt he signed a full written confession. Independent evidence was revealed two years later that Reilly could not have committed the murder, and that the confession he came to believe was false (Kassin, 2001). His confession of guilt came after he failed his polygraph examination. According to White (2001), 35 states allow the use of polygraph evidence in court, but only New Mexico allows unilateral, relatively unrestricted use of polygraph evidence.

The Reid Technique.

The Reid technique is a method of interrogation that has been used in the United States since the 1950s. This technique was made popular by John E. Reid. The technique is a psychological method that focusses on factual analysis, interviewing and interrogation when law enforcement is convinced that a suspect may have committed a crime (Kozinski, 2018). The method has been predominant during interrogations in the United States and hundreds of thousands of law enforcement personnel have adopted the technique. The Reid technique has therefore attracted a great deal of attention in the modern police interrogations (Moore & Fitzsimmons, 2011). While many supporters contend that the technique is crucial in extracting information from individuals who are unwilling to cooperate during an interrogation, critics have affirmed that it can also result in high rates of false confessions, especially among juveniles.

The Reid technique has in the recent past come under sustained attack from scholars who acknowledge that the method has resulted in false confessions over the years. Most cases of exonerations in the United States that involved false confessions have some commonalities. Suspects are challenged either intellectually or mentally and the interview is conducted without an attorney while interrogations last for more than three hours (Spierer, 2017). Suspects are psychologically manipulated by being told information about the crime by investigators themselves. Innocent people may be coerced to the admission of guilt especially when the suspect is a juvenile or if their mental and intellectual capacity is limited. The major goal of the Reid technique is to obtain confession or admission of guilt because a factual analysis has already occurred.

Many times, rather than focusing on obtaining the truth from suspects, law enforcement is focused on using the technique to ensure a confession without considering the age, mental as

well as the intellectual capacity of the individual being questioned (Spierer, 2017). The police are therefore more focused on a confession since the factual analysis eliminates improbable suspects while at the same time developing leads as well as suspects of a crime. According to the authors of the technique, interrogations are only done to individuals who are believed to be guilty (Moore & Fitzsimmons, 2011). The objective collection of information is limited due to the bias formed by law enforcement personnel. The single-minded objectives of the investigators may, therefore, result in many false confessions by overstating the strength of evidence gathered.

Legal Aspects

In the United States, confessions are among the most incriminating as well as the most persuasive evidence of guilt. Jurors, as well as judges, are very likely to accept the confession of an individual because there is a belief that no individual can confess to a crime they did not commit (Turner, 2019). This information is very impactful in the U.S. court system.

Impact of false confessions in courts.

In the court system, a confession makes most aspects of trials unnecessary since the admission of guilt is enough to send an individual to prison even without an effective trial. Recent evidence suggests that over the years, countless innocent people have been wrongfully convicted and incarcerated while others have faced death sentences. They all confessed to crimes they did not commit (Kassin, 2017). After a confession has been made, all the odds are against the confessor which decreases the probability of ever being found innocent.

The confession of a suspect will eventually set in motion an irrefutable conjecture of guilt among the public, the jurors, and the media as well as justice officials which significantly corrodes the criminal justice system. When the police receive a confession, they tend to close the case and have no interest in looking for more evidence that can be presented in court (Turner,

2019). The system is therefore unfair and leaves an innocent individual who confessed to a crime they did not commit being charged and/or convicted. When a false confession is obtained, the validity of the confessor loses value and there is room for strong biases in all proceedings in the criminal justice system (Kassin, 2016). A confession may prompt prosecutors to impose harder sentencing and may refuse to consider any other evidence in the future.

Rights of suspects.

A police interrogation can be an intimidating and overwhelming experience. Therefore, suspects are protected by laws and they have rights during the whole process. Interrogations are conducted with the intent of finding answers to a crime that has been committed. Therefore, the law dictates that before an interrogation, an individual has to be informed of their constitutional rights before being presented with questions (Turner, 2019). A victim should be informed of the right to have counsel during the whole process as well as the consequences of the answers given. An individual has the right to remain silent during an interrogation since anything said can be used against them in a court of law (DeYoung, 2014). As indicated by the law, a victim has a right to consult with a lawyer who can present them during any questioning. If a victim does not have the capacity to afford a lawyer, he/she has a right to have one appointed on their behalf. However, a significant number of people believe that they can easily talk their way out of an interrogation which places them at significant risk of false confessions.

Methodology

The study will be based on a review of the literature and it will involve finding studies that detail the causes of false confessions obtained in the context of an interrogation. The paper will highly rely on secondary data. Peer-reviewed journals will be acquired, and they will be the major

sources of information. Secondary sources have an advantage, in that, primary research has already occurred through several sources and from the field. Resources will also not be required to collect information from primary sources which save cost for the researcher. The paper will, however, be limited in that there will be no feedback from respondents. Nonetheless, the validity of the research will be attained through peer and expert review. This information will be compiled to show the causes of false confession and the adverse impacts that they have on the criminal justice system. The information used in this research will also offer recommendations and policies that can be implemented to reduce the number of false confessions in the future.

Current Standards & Practices for Interrogation

Police interrogations occur on a daily basis and the United States has standards as well as practices that surround the entire process. Miranda rights are the most cited standards that are used during the process, although there are different circumstances that they apply. In modern-day policing, interrogations should be objective, measured as well as ethical since they are solely aimed at discovering the truth and not focusing on the confession (Turner, 2019). The courts expect the police to exercise high standards by using practices that heavily focus on the rights of the accused persons while at the same time minimizing physical as well as mental anguish that can result in false confessions.

An important practice in the current times in an interrogation environment is audio and/or video recording to accurately represent where and what occurred during the interrogation (DeYoung, 2014). However, setting up a positive environment and being objective during the whole process has faced significant challenges due to the desire by the police to obtain a confession and close as many cases as possible. In many police and law enforcements agencies around the U.S. it is currently not a requirement to audio and/or video record interrogations. This

can lead to unethical tactics by law enforcement and result in more false confessions. Governor Sisolak of Nevada passed a law requiring the recording of suspect interrogations in homicide and sexual assault cases in Nevada (The Innocence Project., 2019a). This makes Nevada only the 26th state to require recording of suspect interrogations. The recording of interrogations is an important tool in preventing false confessions.

The use of audio and video recording allows the jury, the prosecutor among other investigators to assess the conditions that were present during an interrogation before a confession was made (Cleary & Warner, 2016). Currently police are trained and more informed of the many variety of ways that can cause a suspect to make a confession to a crime. These ways include extended length of interrogations and emotional and psychological distress. Another best practice that came to light is the careful handling of juveniles as well as mentally disabled individuals due to their vulnerability including making false confessions under the slightest onset of pressure from the police. Such practices are useful in standardizing the criminal justice system and ensuring that confessions are truthful and that the right individuals are prosecuted for their crimes. Audio and or video recording of all individuals including those extremely vulnerable to false confessions should be made mandatory as it would do the false confession rate. These best practices if applied can reduce false confessions in the criminal justice system.

Law enforcement and interrogators should uphold best practices during an interrogation to adhere to the objectives of the criminal justice system. One of the current best practices that is being enforced is ethical interviewing and interrogations. This interrogation method allows both the suspect and the interrogators to have a positive environment for questions and answers (Leo & Richman, 2007). The PEACE model which is a non-confrontational style of interviewing

along with electronic recording allows interrogators to create a positive environment for the suspect and all parties involved. Electronic recording allows for a comprehensive, objective, and reviewable record of an interrogation that can prevent potential false allegations (Leo & Richman, 2007). This prevents police from using coercive methods and allows for an ethical interrogation and interview to take place. In an ethical interrogation and interview, the interrogator can elicit information effectively without using coercive methods and create an environment where the suspect is less defensive. With the interrogation being audio and or video recorded the officer's integrity and ethics can be reviewed without question. The review of the interrogation increases the quality of work by the interrogators and puts trust in groups of individuals that have a distrust for law enforcement. Additionally, police have avoided third-degree techniques during interrogations that were characterized by deception and manipulation, to more ethical interrogations that respect the liberty of the suspects being questioned. Ethical interrogations are a key part in the reduction of false confessions.

Recommendations for the Reduction of False Confessions

It has becoming undeniable the great benefits that would come from the mandatory electronic recording of police interrogations. The rate of false confessions in the U.S. criminal justice system is one that is extremely hard to quantify. This recommendation of policy reform for the mandatory electronic recording of police interrogations would significantly reduce the number of false confessions. Additionally, the PEACE model of interviewing should be used, and post admission analysis should be carefully reviewed. Accounting for the length of interrogations, and not allowing the individual to get to the point of exhaustion, will also reduce false confessions. Utilizing these methods are effective ways to reduce false confessions. By utilizing these recommendations to reduce false confessions, law enforcement and the criminal

justice system would save valuable time and resources. This information is a guide to reduce false confessions in any interrogation environment. It would increase the accuracy of confessions reduce the number of police-induced false confessions.

Audio/Video Recording

False confessions present a major challenge to the criminal justice system in the United States and many other parts of the world. One way to reduce false confessions is through the use of video or audio recording. Widespread concern among the members of the public suggests that there is a lack of transparency during interrogations which results in police-induced confessions that place suspects in jeopardy (Lassiter, 2010). Many organizations across the globe have argued that defense rights are highly important to the suspects and the process of interrogations should be recorded for future references. Organizations such as the Innocence Project works to exonerate wrongly convicted individuals through DNA evidence asserts that recording of interrogations is one of the best ways of preventing future injustices (Cutler & Leo, 2016). A recorded interrogation is the best way to ensure that the police do not false suspects to confess.

According to Lassiter (2010), video, as well as the audio recording, is an important measure to ensure that police interviews and interrogations bring an unparalleled degree of openness to the whole criminal justice system process. Video recording allows all interested parties to agree on the results of an interview or interrogation in a fair as well as a humane criminal justice system. In the United States, some recording is done during interrogations but there should be an improvement in the way the process is done. For example, there should be a clear view of both the police and the individual being interrogated to allow investigators to detect and reject false confessions through the evidence presented in a video recorded interrogation (Lassiter, 2010). A video record allows investigators to pay attention to the suspect's verbal and

nonverbal communications, which helps to ensure investigators did not use any coercive tactics to obtain the confession. This preserves information that investigators and counsel can assess for reliable information obtained from the actual suspect (Ives, 2007).

At trial, the video record minimizes or resolves any disputes between the suspect and the interrogators regarding what happened during the interrogation. Additionally, a video record will also reveal the individual's condition at the time of the interrogation. This will show any specific abuse or other improper police tactics, and if vulnerabilities or disabilities are present (Ives, 2007). Therefore, the audio/video recording of interrogations will ultimately increase the transparency of the whole process.

Another advantage of video and audio recording is that it increases the quality as well as quantity of incriminating evidence available during a trial, therefore, reducing bias among the jury and the prosecutors. Lack of a video recording makes it increasingly difficult for the jury and the prosecutor to assess the conditions that resulted in a confession (Leo & Richman, 2007). The audio-visual recording should receive support from all stakeholders in the criminal justice system including the American Bar Association and the law enforcement to reduce the number of false confessions that have been witnessed in the United States over the years. Audio and video recording will serve as an important deterrent to abuses as well as pressure on people being interrogated by the police. Audio and video recording should be implemented on all interrogations not only for juveniles or mentally disabled individuals.

Length of Interrogation

The length of an interrogation plays an important role in inducing false confessions among many suspects in the United States. For instance, during the early and mid-19th century, the length of interrogation was not a consideration and suspects would be interrogated under

harsh conditions until they confessed (Ives, 2007). Moreover, the challenge has been witnessed in the 21st century and prominent cases have revealed that some suspects are interrogated for long hours under pressure especially when the police believe that they are guilty. A wide body of research reveals that many false confessions are attained when an individual spends much time in an interrogation room and their only way out of the conditions is through a confession (Cutler & Leo, 2016). Shorter length interrogations can help prevent an individual from making any statement voluntarily due to the pressure associated with a lengthy interrogation.

The length of interrogation is an important aspect to consider during an interrogation. Although there is no length of time set for interrogation in the United States due to the different circumstances that exist, there should be a line between extended interrogations and coercion. When police believe that a suspect is innocent, they tend to detain an individual for long hours without sleep and food to exploit the vulnerabilities of an individual (Ives, 2007). At that time, the police can use threats and promises, minimizing the moral seriousness of the offenses of an individual or even using fabricated evidence. As such, there should be a clear fine line that prevents prolonged questioning during an interrogation to stop the police from coercing a confession from a suspect.

Cutler and Leo (2016) affirms the court acknowledges that the manner in which an interrogation environment is structured as well as the length of questioning can create stress as well as pressure that has been linked to false confessions. The courts should further determine how long an individual should be questioned to prevent a coerced confession. Additionally, there should be a specific amount of time that the police should be allowed to interrogate a suspect without the presence of an attorney. An extended length of interrogation should be grounds for a miscarriage in a trial. An interrogation should, therefore, last while an individual can make

statements voluntarily, otherwise, the presence of council should be mandatory (Ives, 2007).

Determining the appropriate length of interrogations in the United States and across the world will significantly reduce the number of false confessions that have been witnessed over the years.

PEACE Model

The PEACE Model is a technique for investigative interviewing that was primarily designed to create an appropriate environment during interrogations. The model was developed in the early 1990s as a collaborative effort between law enforcement and psychologists in England Wales (Clarke & Milne, 2017). The model is an important approach to reduce false confessions in the United States because it is structured to take a conversational as well as a non-confrontational approach to getting information from a suspect in an investigative interview. Overly aggressive interviewing techniques are highly associated with false confessions. Nonetheless, the model emphasizes the research that was done on good communication skills, human memory as well as the management of conversations (Lassiter, 2010). PEACE model will enable the police to deviate from focusing on obtaining a confession from suspect, to obtaining full as well as accurate information from suspects which can also be useful in acquiring the full picture of a crime.

Ethical interviewing during an interrogation is an important consideration among law enforcement because it presents maturity as well as justice in the criminal justice system. A PEACE model as an interviewing technique has been used in the UK among other regions to reduce the number of false confessions as a result of forceful interviewing styles, akin to interrogations (Clarke & Milne, 2017). The technique allows a suspect to have a shared understanding of the conversation that will follow during an interrogation. The PEACE model assumes that it is more likely and easy as well as safer to get a true confession in addition to

collaboration from a suspect who is relaxed and secure (Clarke & Milne, 2017). When a subject is fearful about the interviewer as well as the environment of interrogation, it is not likely for them to be truthful in their statements.

The PEACE Model should be enforced in the United States and law enforcement personnel should learn and practice the skills. Although the model is gaining prominence in North America, there is still a lot of work to be done to ensure that interrogations are conducted in an ethical manner that discourages false confessions (Clarke & Milne, 2017). The model will allow police officers to become professional interviewers who can conduct ethical interrogations while at the same time allowing a suspect to be comfortable to make truthful statements. The PEACE model can therefore also be used to lower the number of false confessions in the criminal justice system.

Post-Admission Analysis

Having an understanding of the correct process that should be used for interviewing, questioning as well as interrogation is an important aspect in the criminal justice system. However, post-admission analysis is also a very important tool in distinguishing between false confessions and those obtained in appropriate circumstances (Cleary & Warner, 2016). Although the police have moved away from using the third-degree techniques of interrogations, the courts should continue to remain vigilant in assessing in assessing how suspects are interviewed and interrogated. A post-admission analysis will allow the court to distinguish between reliable as well as unreliable statements (Leo & Richman, 2007). When a suspect gives a true confession, a post-admission narrative analysis will ascertain that the objectivity of knowable facts of a crime aligns with the statements made. As such, it becomes easy to distinguish between a false and true confession after an interrogation has occurred.

A true confession from a suspect means that the individual will know details of both the mundane and significance of the crime scene as well as the case facts. Evaluating the case facts with the statements made by a suspect is an important way of avoiding false confessions because a suspect cannot know facts that are not known publicly (Cleary & Warner, 2016). A post-admission analysis will also reveal whether an interrogator revealed the details or facts of a crime to a suspect to induce a false confession. The analysis can be used to distinguish between innocent and guilty individuals through an evaluation of the facts presented during an interrogation and comparing them with what is in evidence (Cleary & Warner, 2016). False confessions are usually accepted in courts because the police conducting interrogations have already made up their minds that the suspect being interviewed already committed the offense. A post-admission analysis will eliminate all doubts after a confession has been made.

A post-admission analysis should be consistently enforced following an interrogation to assess the validity of the statements made during the whole process. For example, an innocent who confesses to a crime he or she did not commit cannot provide a post-admission narrative that is in line with the crime scene details or the facts of the case (Cleary & Warner, 2016). Innocents suspects are usually fed correct answers by the police interrogators. As such, an analysis will evaluate the level of contamination a case has including giving details of a crime to a suspect to coerce a confession. If post-admission analysis will be enforced in the United States, false confessions will be identified before trial, which will benefit the criminal justice system significantly.

Conclusion

False confessions have occurred much to frequently in the criminal justice system and there are many scenarios under which an innocent person may give an admission of guilt.

Thousands of years and millions of dollars have been lost due to false confessions. While there is no simple answer to why innocent people confess, the structure and practices of interrogations in the United States have resulted in false confession due to the pressure exerted by the police. Judges and jurors must be aware of the interrogation tactics used to obtain a confession. There should be reviewable audio/video records of information readily available for all parties.

Important reforms are needed in the criminal justice system to reduce false confessions - most importantly when it comes to respecting the rights of an accused person during interviews and interrogations. Law-enforcement procedures during interrogations should be reformed to include the mandatory use of electronic audio/video recording which would prevent prosecutors from using false confessions obtained under coercive or unethical means. It is recommended that a positive environment should be created by using the PEACE model and applied during the process to increase the legitimacy of any confession made by the suspect. The length of interrogations should be considered in a post-admission analysis along with the condition and mental state of the suspect at the time of the interrogation. Juveniles and individuals with mental disabilities should be treated with care and respect due to their vulnerability in an interrogation. Even though all false confession will not be prevented following these recommendations will help to reduce the overall number of false confessions in the criminal justice system.

References

- American Polygraph Association. (2019). Frequently Asked Questions. Retrieved from <https://www.polygraph.org/polygraph-frequently-asked-questions>
- Anvaso, H. (June 2011). The High Cost of Wrongful Convictions in Illinois. Retrieved from <https://www.northwestern.edu/newscenter/stories/2011/06/wrongful-conviction-cost.html>
- Bohannon J. (2016). Feeling sleepy? You may confess to a crime you didn't commit. Retrieved from <https://www-sciencemag-org.ezproxy.uwplatt.edu/news/2016/02/feeling-sleepy-you-may-confess-crime-you-didn-t-commit>
- Chapman, F. (2013). Coerced internalized false confessions and police interrogations: The power of coercion. *Law & Psychology Review*, 37, 1-35. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2467049
- Clarke, C., & Milne, R. (2017). Interviewing suspects in England and Wales. In D. Walsh, G. Oxburgh, A. Redlich, & T. Myklebust (Eds.), *International developments and practices in investigative interviewing and interrogation* (pp. 133-150). London: Routledge.
- Cleary, H., & Warner, T. C. (2016). Police training in interviewing and interrogation methods: A comparison of techniques used with adult and juvenile suspects. *Law and Human Behavior*, 40(3), 270.
- Cutler, B. L., & Leo, R. A. (2016). Analyzing videotaped interrogations and confessions. *The Champion Magazine* [Forthcoming]. Univ. of San Francisco Law Research Paper No. 2016-14.

- DeYoung, J. K. (2014). Rule 4.7 of the Arkansas Rules of Criminal Procedure: A squandered opportunity or a step in the right direction. *Arkansas Law Review*, 67, 147-166.
- Drizin, S.A., & Leo, R.A. (2004). The problem of false confessions in the post-DNA world. *North Carolina Law Review*, 82, 1-114.
- Frenda S, Berkowitz S, Loftus E., & Fenn K. (2016). Sleep deprivation and false confessions (UC Irvine School of Law Research Paper No. 2016-23). *PNAS*, 113(8), 2047-2050.
- Gudjonsson, G., & Pearse, J. (2011). Suspect interviews and false confessions. *Current Directions in Psychological Science*, 20(1), 33-37. Retrieved from <http://www.jstor.org/stable/23045712>
- Irazola, S., Williamson, E., Stricker, J., & Niedzwiecki, E. (October 2014). Addressing the impact of wrongful convictions on crime victims. *NIJ Journal*, 274.
- Ives, D. E. (2007). Preventing false confessions: Is Oickle up to the task. *San Diego Law Review*, 44(3), 477-1027.
- Jared, T. (2015). The Tape Never Lies. Recording Police Interrogations to Reduce False Confessions in West Virginia. Retrieved from <https://wvlawreview.wvu.edu/files/d/78f56026-3e38-4add-8e3f-778f2dea2a91/dotson.pdf>
- Gross S, & Possley M. (2016). So Why Do So Many Suspects Confess to Crimes They Didn't Commit? The National Registry of Exonerations. Retrieved from <https://www.law.umich.edu/special/exoneration/Pages/false-confessions-.aspx>
- Gutman J, & Sun, L. (2019). Why is Mississippi the best state in which to be exonerated? An empirical evaluation of state statutory and civil compensation for the wrongly convicted, *The Northeastern University Law Review*, 11, 694-788.

- Kassin S. (2001). Confessions: Psychological and Forensic Aspects. International Encyclopedia of the Social & Behavioral Sciences. Retrieved from <https://web.williams.edu/Psychology/Faculty/Kassin/IESBS.confess.pdf>
- Kassin, S. (2008). False confessions: Causes, consequences, and implications for reform. *Current Directions in Psychological Science*, 17(4), 249-253. Retrieved from <http://www.jstor.org/stable/20183294>
- Kassin, S. M. (2016). False confessions: From colonial Salem, through Central Park, and into the twenty-first century. In L. Wrightsman (Ed.), *The witness stand* (pp. 53-74). New York, NY: Springer.
- Kassin, S. M. (2017). False confessions: How can psychology so basic be so counterintuitive? *American Psychologist*, 72(9), 951.
- Kassin, S., Drizin, S., Grisso, T., Gudjonsson, G., Leo, R., Redlich, A. (2010). Police-induced confessions: Risk factors and recommendations. *Law and Human Behavior*, 34(1), 3-38.
- Kassin, S. M., & Kiechel, K. L. (1996). The social psychology of false confessions: Compliance, internalization, and confabulation. *Psychological Science*, 7(3), 125–128.
- Kassin, S., & Wrightsman, L. (1985). *The psychology of evidence and trial procedure*. Beverly Hills: Sage Publications. Retrieved from https://web.williams.edu/Psychology/Faculty/Kassin/files/kassin_wrightman_1985.pdf
- Kozinski, W. (2018). The Reid Interrogation Technique and False Confessions: A Time for Change. *Seattle Journal for Social Justice*, 16(2), 301-346.
- Lassiter, G. D. (2010). Videotaped interrogations and confessions: What's obvious in hindsight may not be in foresight. *Law and Human Behavior*, 34(1), 41-42.

Leo, R. A., & Richman, K. D. (2007). Mandate the electronic recording of police interrogations. *Criminology & Public Policy*, 6 (4), 791-798.

Leo, R.A., & Ofshe, R.J. (1998). The consequences of false confessions: Deprivations of liberty and miscarriages of justice in the age of psychological interrogation. *Journal of Criminal Law and Criminology*, 88(2), 429-496. doi:10.2307/1144288

Luna, M. (2017). Juvenile false confessions: Juvenile psychology, police interrogation tactics, and prosecutorial discretion. *Nevada Law Journal*, 18(291), 1-26.

Moore, T. E., & Fitzsimmons, C. L. (2011). Justice imperiled: False confessions and the Reid technique. *Criminal Law Quarterly*, 57, 509-542.

National Association of Criminal Defense Lawyers. (2019). Retrieved from <https://www.nacdl.org/usmap/crim/30262/48121/d>

Oxford Dictionary. (2019). Confession. Retrieved from: <https://en.oxforddictionaries.com/definition/confession>

Redlich, A. D., Summers, A., & Hoover, S. (2010). Self-reported false confessions and false guilty pleas among offenders with mental illness. *Law and Human Behavior*, 34(1), 79-90.

Scott-Hayward, C. S. (2007). Explaining juvenile false confessions: Adolescent development and policy interrogation. *Law & Psychology Review*, 31, 53-76.

Spieler, A. (2017). The right to remain a child: The impermissibility of the Reid Technique in juvenile interrogations. *New York University Law Review*, 92, 1719.

The Innocence Project. (2011). Exonerate. Retrieved from: <https://www.innocenceproject.org/exonerate/>

- The Innocence Project. (2018). DNA Exonerations in the United States. Retrieved from <https://www.innocenceproject.org/dna-exonerations-in-the-united-states/>
- The Innocence Project. (2019a). Nevada Passes Law Requiring Recording of Suspect Interrogations. Retrieved from <https://www.innocenceproject.org/nevada-passes-law-requiring-recording-of-suspect-interrogations/>
- The Innocence Project. (2019b). Central Park Five Tragedy Reframed in Netflix Series When They See Us. Retrieved from <https://www.innocenceproject.org/central-park-five-tragedy-reframed-in-netflix-series-when-they-see-us/>
- The National Registry of Exonerations. (2019a). Exonerations in 2018 (p. 1-23). Irvine California: Newkirk Center for Science and Society. Retrieved from <https://www.law.umich.edu/special/exoneration/Documents/NRE.20000.Years.Report.pdf>
- The National Registry of Exonerations. (2019b). Milestone: Exonerated Defendants Spent 20,000 years in Prison (p. 1-11). Irvine, California: Newkirk Center for Science and Society. Retrieved from <https://www.law.umich.edu/special/exoneration/Documents/Exonerations%20in%202018.pdf>
- The United States Department of Justice. (2019). Criminal Resource Manual: 259. Polygraphs-General. Retrieved from <https://www.justice.gov/jm/criminal-resource-manual-259-polygraphs-general>
- Turner, J. I. (2019). Regulating interrogations and excluding confessions in the United States: Balancing individual rights and the search for the truth. In S. Gless & T. Ritcher (Eds.),

Do Exclusionary Rules Ensure a Fair Trial? Ius Gentium: A Comparative Perspectives on Law and Justice (pp. 93-129). New York, NY: Springer. https://doi.org/10.1007/978-3-030-12520-2_4

White, D.R. (2001). Ask me no questions, tell me no lies: Examining the uses and misuses of the polygraph. *Public Personnel Management*, 30(4), 483-493.