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Journal

UC Merced Undergraduate Research Journal, 8(1)

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Publication Date

2015

DOI

10.5070/M481029479

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Undergraduate

Why People Confess to Crimes They Did Not Commit:

The Unexpected Ease of False Confession

By Rhondalee Randle

Abstract

A significant number of criminal cases later overturned on DNA evidence was first prosecuted based on a confession. This literature review examines the methods by which false confessions are obtained, more specifically internalized false confession, where people are led to believe that they have actually committed a crime. Rather than coercion, repetition was found not only to be a common interrogation practice, but was also deemed a significant force leading to false confessions. With such “structural defects” within the criminal justice system, it is important that future research focuses on the psychological aspects of interrogation so that police officers and other professionals working in the criminal justice system can reform procedural protocols for extracting testimony.

Introduction

False confession is one of the leading causes of wrongful conviction (The Innocence Project, 2015). The idea of a person confessing to a crime they did not commit seems unbelievable to many, but it happens to be more common than one would think. Of the 325 court decisions to date that have been overturned with DNA evidence, 27% of these convictions were obtained on the basis of a false confession (The Innocence Project, 2015). This is alarming, because the conviction process is already so vulnerable to incorrect information, whether it be by an eyewitness, an error in forensic analysis, or an informant; a false confession is even more of an anomaly as it is difficult to detect deception when even the person confessing believes it to be true.

Kassin (2014) identifies three distinct forms of false confession—voluntary, compliant and internalized—and the ways in which they come about. Voluntary false confession occurs when a person confesses to a crime without any prompting by the police or other law enforcement. This type of confession is typically made with a need for attention, self-punishment, or to protect another person (Kassin, 2014). The interrogative process often induces compliant confessions, when a person believes that making a confession in the short-term outweighs the long-term consequences (Kassin, 2014). For example, individuals who are interrogated for inhumane lengths of time, deprived of sleep, food or water are more inclined to say whatever needed to escape the current situation they are in. Lastly, and what is the most potent and dangerous form of false confession, are internalized false confessions. Internalized false confessions occur when innocent people are led to believe, to the best of their knowledge, that they themselves committed a crime (Kassin, 2014).

This literature review explores how interrogation tactics and police work can influence false confessions and focuses on both the psychological and cognitive aspects of internalized false confession. The malleability of memory, age, perception of the interrogators, misinformation, and the conditions under which interrogations are solicited all play an integral role in the ability to implant false ideas into a person's mind to the extent that they integrate this false information as truth in their memory. This literature review suggests the most significant mechanism in eliciting internalized false confessions is repetition. This repetition may take various forms including forced confabulation, suggestibility, and misinformation effects. Forced confabulation is a phenomenon that occurs when someone is under questioning and does not know the response to a question; they will be repeatedly asked to recall a series of events and when they are unable to supply an answer often confabulate, or make up a response. The effects of suggestibility can be readily seen in interrogative practices when a subject is asked to continuously recall an event series, but their uncertainty proves to be a weak point to which interrogators can use against them to acquire a confession. Misinformation effects are a more blatant mechanism for obtaining false information. Witnesses may be asked misleading questions, shown false evidence or may be deceived for the purposes of obtaining a confession. This review examines these modes of repetition and how they can produce internalized false confessions, the subtlest and most troubling type of false confession.

Internalized false confession has been identified as an exceptional threat to the justice system. When people confess things to be true to the best of their knowledge, polygraphs register those somatic reactions as truth. Whether or not such confessions are made voluntarily or through the process of interrogative methods, this problem is exacerbated by the inability of courts, juries and judges to differentiate between the two. Honts and Craig (2014) tested whether or not laypersons and police officials could detect the difference between true and false confessions. Researchers exposed participants to true and false prisoner confessions, and asked them to determine which confession was true and which confession was false. The data suggest that police participants were no more accurate than lay people in regards to detecting honesty, despite the fact that both groups of participants were very confident in their judgments (Honts & Craig, 2014). It was found that a combination of a person providing a false confession, and the court's inability to detect honesty, often lead to convictions that do not have merit. These meritless sentences rob law-abiding citizens of their birth earned freedom and rights, all while indirectly enabling a faulty criminal justice system. With such grand implications, what specific mechanisms give rise to false confession?

Forced Confabulation

For many people, the idea of a person falsely confessing to having committed a crime they did not commit can seem unbelievable, but research has supported that both the subject of investigation and those investigating contribute bias to the procurement of testimony (Pezdek, Sperry & Owens, 2007). Forced confabulation is one of the slightest yet most dangerous methods of obtaining false confession. Imagine then that Suspect X is being persistently interrogated about a matter that Suspect X honestly knows nothing about by an officer who is diligently searching for an answer, it is possible that an unrelenting interrogation can lead someone to confabulate testimony. It is important to note that this method of persistence differs from blatant and forceful coercion, which often makes use of threats to gain testimony. Forced confabulation can occur when a suspect is pressed repeatedly to answer a question that they have already stated that he or she doesn't know the answer to, but feel forced to 'confabulate' an answer for the sake of answering the question (Pezdek, Sperry & Owens, 2007). This is frightening in that there is currently no known way to differentiate from true deception and false confessions. Not all false confessions are made knowingly, with deceitful intentions, but rather can come from anomalies and fallibilities within the human mind that allow a person to misremember information that sometimes leads to the creation of false testimony.

When it is made clear that 'I don't know' is not a sufficient enough answer, subjects will often confabulate answers to questions that they are being repeatedly asked. The explanatory role hypothesis states that people are more inclined to believe falsely generated accounts if they are able to create a narrative, or logically piece together a series of events (Pezdek, Sperry & Owens, 2007). In other words, if a person can logically justify these false accounts, they are more easily integrated into memory.

For example, Pezdek, Sperry, and Owens (2007) tested whether or not self-generated responses to questions could produce a misinformation effect. Researchers wanted to see how resistant human memory is to leading questions and lapses in confidence. They tested this by having participants witness an event, and then asking them recall questions. The results showed that when participants were forced to guess answers to the questions that the experimenter's knew were unanswerable, the answers that participants did give became incorporated into their memory of the event (Pezdek, Sperry & Owens, 2007).

This study presents a striking and important aspect of forced confabulation. People can be led to believe that they alone were the source of an idea. The gaps in knowledge in regards to unanswerable questions coupled with the repetition of the same series of events make the participant susceptible to formulating their own causal explanation, or misinformation effects, that though untrue, can be incorporated into their memory, so that 'to the best of their knowledge' the information about the event is true.

These results were confirmed by Chrobak and Zaragoza (2013), who also examined the means by which causal explanations are integrated into memory so that a subject believes incorrect information to be truth. False memories are not always a form of deception, but rather an anomaly of the human mind. The researchers tested the creation and development of false memories by having participants witness an event on video and asking them to recall and answer questions in as much detail as possible. When participants became vague with their answers, the

experimenter would again encourage participants to confabulate, ultimately leading these participants to generate a false account of the events that participants believed to be in fact truth.

The results showed that repeated exposure to misinformation not only influenced what participants reported, but could also lead to the creation and development of genuine false memories that participants are fairly confident in (Chrobak & Zaragoza, 2013). Participants in the study often times were aware that their responses were falsely generated, but these false memories were still encoded. This research clearly suggests that repeated questioning coupled with external sources of misinformation can have a significant effect on memory and recall, which only intensifies when the participant is the source of the false account.

Forced confabulation is one means of generating new and even false memories, which can ultimately lend it to internalized false confessions. The deceptive mechanisms involved in forced confabulation are not as blatant as other interrogative practices, but can elicit similar results, often times with the subject of investigation unaware that it is happening.

Misinformation Effects on Memory

One pervasive yet legal police tactic is furnishing false evidence in an attempt to solicit a confession from a suspect (Innocence Project, 2014). The efficacy of this “bluff” tactic has not been identified as strong despite its frequent use in interrogations (Eakin, Schreiber & Sergeant-Marshall, 2003). What effect does misinformation have on memory? Eakin, Schreiber and Sergeant-Marshall (2003) aimed to answer this question. They found that even when participants are alerted that they have been exposed to misleading information, these participants still integrated some of the misinformation for truth, and had difficulty differentiating the two when tasked with recall (Eakin, Schreiber & Sergeant-Marshall, 2003).

In a series of five experiments, Eakin, Schreiber and Sergeant-Marshall (2003) examined the effect of post-event misinformation on participants tasked to recall an eyewitness event. The researchers found that participants exposed to post-event misinformation were less able to recall those details compared to participants who did not. In fact, even upon warning participants that they have been exposed to misinformation, or to ‘disregard’ a specific piece of information, the results were consistent. This is relevant because often a false idea is implanted subtly and unconsciously, producing effects that are often irreversible even if the participants become aware (Eakin, Schreiber & Sergeant-Marshall, 2003).

One method of unintentionally influencing suggestibility is repeated retrieval, or simply asking a person to recall a series of events multiple times. This can sometimes produce opportunities for new information to be ingrained into a subject’s memory. The Gudjonsson Suggestibility Scale has shown that recalling an event is already faulty when presented with external misleading information (Redlich & Goodman, 2003). Does repeated retrieval of information produce similar effects? Chan and LaPaglia (2011) examined whether or not repeated retrieval could increase error in memory reporting. They found that repeated initial recall tests made participants more susceptible to suggestibility and misinformation effects later over the course of their interrogation (Chan & LaPaglia, 2011).

Why is this? Typically, in an interrogative setting, subjects are often asked to freely recall an event multiple times by different people (police, lawyers, judges) before facing a more specific and “pointed” set of questions that can prove to be leading. For example, in courtroom interrogations, before a witness provides their testimony in front of a judge, they have been prepped, primed, and have been asked the details of the events in many different ways. The order of recall affects subjects’ susceptibility to misinformation. Free recall, rather than pointed and specific questions, allows subjects to become more susceptible to interrogative tactics and misinformation (Chan & LaPaglia, 2011).

The researchers speculate that the initial free recall subconsciously brought focus to a specific subset of items, or details. When participants were asked more specific questions about the details, those questions often inadvertently fed information to the subjects. Whether the question has misleading intentions or not, the memories of those details were encoded further into the brain as truth in a manner in which participants would retrieve details of the events with confidence. Allowing participants to engage in free and unstructured recollection before being tasked to answer questions about specific details of the event makes room for error and false story creation (Chan & LaPaglia, 2011).

Repetition gives rise to a multitude of vulnerabilities that can be conducive to eliciting false confessions. Misinformation effects rely on the repetitive nature of interrogations to its advantage. Recall suggestibility is one of the more significant factors contributing to internalized false confession. Anytime a person can be led to believe that they were the origin of an idea, where false information is internalized and integrated into working memory, this false information becomes truth (Eakin, Schreiber, & Sergent-Marshall, 2003; Chan & LaPaglia, 2011).

Age and Suggestibility

Over the past 25 years, 38% of cases that have been overturned on the basis of DNA evidence have involved juveniles (Innocence Project, 2015). Nirider and Bowman (2015) argue that such a large number of false confessions involve juveniles because standard interrogation tactics are intended for adults (Innocence Project, 2015; Drizin & Leo, 2004). What about age though, has an effect on suggestibility, or how easy it is to lead someone to change his or her judgments? Redlich and Goodman (2003) examined just that. They identify internalized false confession as a significant loophole in the justice system, and go on to state that the risk of giving a false confession may be increased in juveniles. This could be because there is a high correlation between suggestibility and age (Redlich & Goodman, 2003).

The Gudjonsson Suggestibility Scale (GSS) is a widely used test that measures individual differences in two aspects of suggestibility: how an individual responds to leading questions, and also how susceptible they are to changing responses when interrogative pressure is present (Redlich & Goodman, 2003). The test is typically carried out by presenting participants with a narrative, and then asking participants to recall the event; participants are either asked neutral questions, or misleading questions in which their responses are monitored for changes in relation to their primary responses.

Redlich and Goodman (2003) examined the relationship between age and suggestibility. Participants included males and females between the ages of 12 and 26. These participants were

presented a computer in which they were asked to perform a task. Participants were told that a specific string of keystrokes could lead the computer to malfunction, though computers were programmed to glitch at a specific time. This acts as the “mock crime” and is the basis of participants’ “confessions.”

Upon reaching the glitch, participants were assigned to one of two conditions: the false evidence condition, in which they were told the computer records all keystrokes, and their glitch could be identified from the data, or a control condition. They found that a majority of the participants in the false evidence condition were more apt to give a false confession; further, participants in the false evidence condition were more inclined to believe they actually committed the mock crime.

The ability to form a logical narrative is what causes many participants to internalize these confessions. “If keys X, Y and Z cause the computer to crash, the computer crashes, and the experimenter recorded my keystrokes? I must have hit X, Y and Z keys on accident” (Redlich & Goodman, 2003). This study highlights some of the most prominent factors in the realm of false confession: age, susceptibility to misinformation, and internalization of details. The researchers found that the highest rates of suggestibility and internalization was within the youngest age group, 12-13 year olds (60%), and though the rates decrease with age, these rates are still high for 15-16 year olds (53%) and young adults (45%) alike.

These results were confirmed by Dukala and Polczyk (2013), who examined the role that age plays in a person’s suggestibility, and also considered external factors such as interviewer behavior as a predictor of suggestibility. The Gudjonsson Suggestibility Scale was again used to measure suggestibility. Participants were given a narrative to listen to, and then tasked to recall the event in response to questions that can either be neutral or misleading. Interviewers were from either the friendly condition, in which they were personable, attempted to make conversation and built rapport with their participant, or from the abrupt condition, in which interviewers were discouraged from such behavior, and made minimal to no attempt at building rapport with their participant. Participant’s responses to both the measures themselves and their interviewers’ social behaviors suggest that interviewers’ behavior may in fact have had some effect on participant’s responses.

The researchers found memory quality affects the degree of influence that age has on suggestibility, as memory degrades with age; many of the elderly participants were unsure solely on the basis that they did not trust their own memory, thus uncertainty is another key factor that comes into play with regard to false confession. Interviewer behavior had a strong effect on suggestibility across the ages. The researchers believe that this difference in responses can be attributed in part to interviewer behavior as well. Dukala and Polczyk (2013) suspect that the abrupt interviewer, who refrained from building rapport or giving any confirmatory body language, made participants feel more unsure when compared to the friendly interviewer, who would encourage participants despite the uncertainty within their responses (Dukala & Polczyk, 2013).

It is important to differentiate the aspects of age that both these studies touch on. Research has shown that a number of false confessions occur with juveniles, and in regards to suggestibility, younger participants were more inclined to yield to misleading questions, and shift their answers (Redlich & Goodman, 2014). The aged brain is fallible, and though memory

decays with age, susceptibility to interrogative tactics does not. For elderly participants, a large part of the uncertainty they felt could be attributed to their own personal memory, and their personal distrust of their memory, along with interviewer behavior (Dukala & Polczyk, 2013). The researchers could not find any notable differences between old age and suggestibility until interviewer behavior is introduced. In sum, age and suggestibility are highly correlated at either end of the age continuum. While all ages can be suggestible, age-specific vulnerabilities can be further mediated by the interrogative context, for example, interviewer personality (Dukala & Polczyk, 2013; Redlich & Goodman, 2014).

Rooting out False Confession

To be in a position to confess, let alone falsely, one typically would need to waive their Miranda Rights, or their right to an attorney before being probed and questioned by law enforcement. Why people waive this right stumps many, but Kassin and Norwick (2004) attempted to identify and isolate the specific factors that would lead a person to deprive themselves of this right. They found that some people felt that since they were innocent they did not need a lawyer. People without criminal records were more likely to waive their rights than those with prior convictions (Kassin & Norwick, 2004). The researchers conclude that people have a “naïve faith” in the power of their own innocence to withstand interrogation (Kassin & Norwick, 2004).

The implications of these findings suggest that the Miranda Rights intended to protect people who need it most could actually be detrimental to the interrogative process. Though confession alone is not technically and legally enough to implicate a person of a crime, it is enough to create reasonable doubt and, as this literature review demonstrates, could be enough to lead a person themselves to believe that they have committed acts that they did not commit.

After considering the degree to which false confessions or memories come about, it is also important to highlight how to prevent suggestibility. Memon, Zaragoza, Clifford and Kid (2010) studied the effects of cognitive interview and whether or not that can reduce the effects of forced confabulation. Cognitive interview is a method of interviewing eyewitnesses to make them aware of all events, senses, and sensations that transpired with them and the events, compared to free recall in which subjects only recall the events that they remember (Memon, Zaragoza, Clifford & Kid, 2010). Participants were tasked to watch a clip and sat through two interviews: a suggestive interview and a non-leading interview. These interviews were followed by a cognitive interview, or free recall of events. The researchers found that cognitive interview reduced false memories for forced fabrications, but only when cognitive interview was administered before the suggestive interview; cognitive interview did not have the same magnitude of effect when administered after the false fabrication interview.

These results make sense when considering the fact that often-false fabrications and confabulation are assimilated into actual memories; a cognitive interview would not have an effect on memories that are effectively “true”. However, this style of interview makes little room for suggestibility or bias allowing for interviewers to obtain the most accurate testimony. Preventing false confessions has yet to be rendered an exact science, but the best way to prevent them seems to be to engage in non-suggestive interrogative practices. Confessions taken by skilled interrogators are careful and deliberate. The goal that interrogators have is to obtain these confessions without it being considered a contaminated piece of evidence.

The methods by which false confession, more specifically internalized false confession, is solicited are many, but the most significant factors are unintentional (interrogative bias) and exacerbated by external factors such as misinformation and how susceptible one is to suggestibility. Making participants repeatedly recall eyewitness events is a common practice in law enforcement, but these various avenues of repetition all lend themselves to the implantation of new information within a person's memory. This literature review considers the means by which people are most vulnerable to internalized false confession, and there is little evidence to suggest internalized false confession correlates with mental illness or cognitive impairment. Instead, the research suggests everyone is susceptible, especially children and young adults. The inability of many to realize that we are all just as likely to falsely confess is significant and can at times lead to unintentional coercion.

The implications for the criminal justice realm are many, particularly with respect to interrogative tactics. Where police employees and laypeople alike cannot identify truthfulness (Honts & Craig, 2014), developing ethical interrogation procedures could minimize confounds in the investigative process that could in turn create inconsistencies during the interrogative process. Alternative interrogative methods such as cognitive interview work to avoid any subconscious influences or third party bias on the testimony of others.

Future research should identify specific aspects of the interrogative process that lead to false confessions, with greater emphasis on internalized false confession (Kassin, 2014). With much of the research focused on the suspect being interviewed, more emphasis needs to be put on interrogators and the associated protocols for extracting information. Though the research found interviewer personality could at times mediate vulnerabilities to false confession, a narrower focus should be put on the context in which the interrogative process unfolds. Rather than solely focusing on the person being interviewed and how both cognitive and psychological mechanisms enable internalized false confession, greater attention should be brought to timing, environment, interviewer attitude and behavior. Though no singular mechanism leads to the implantation of false memories, repetition and redundancies within the process of acquiring testimony primes suspects for false confessions.

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Biography

Rhondalee Randle is a 4th year Psychology major with a minor in Cognitive Science, though only her first publication, she continues to immerse herself in both her research and academia all while balancing the workload of her senior year. With her sights aimed at studying psychology at the graduate level come May, Rhondalee has been fine tuning her skillset and is more focused than ever to make her academic goals a reality. She would like to thank all of her friends, family and bobcat community for supporting her through this very hectic yet exciting time. A very special “Thank You” should also be made to Dr. Catherine Koehler, with whom none of this would be possible.

“The good life is a process, not a state of being. It’s a direction, not a destination.”