

Motives For False Confessions

July-August 2009

(Please Note: If you wish to print and share an Investigator Tip with your colleagues, the John E. Reid 'credit and permission' statement following the article must be included.)

To date, the *innocence project* has freed in excess of 200 individuals from prison based on DNA evidence. These innocent defendants were found guilty of serious felonies such as murder and rape. Furthermore, about twenty percent of them confessed to committing the crime either to the police during an interrogation, or to a judge as a result of a plea bargain with the prosecutor. What causes innocent people to confess to crimes they did not commit?

The simple answer is that, at the time of the confession, many of these suspects believed that it was in their best interest to confess, e.g., escape a death sentence, keep children out of a foster home, etc. However, when evaluating individual cases, a number of specific motivations can be identified. When evaluating the trustworthiness of a confession, the investigator, prosecutor and judge should consider the following motivations for false confessions.

Tangible Gains

When speaking of the value of the polygraph technique, John Reid told the following story. A man from Chicago confessed to a homicide that occurred in California. The man was extradited to the west coast and charged with the killing. At that point he recanted his confession, and explained that he was seeking to escape the cold weather of Illinois. Of course, no one believed him until Reid was able to verify his truthfulness through the polygraph technique. Other examples of tangible gains that may lead to a false confession include seeking shelter, food, medical care, and protection (being hunted by drug lords). These suspects may come forward and confess without any interrogation (the so-called voluntary false confession), or confess after a relatively short and mild interrogation. Once their need has been satisfied, they recant the confession but find that it is much easier to be charged with a crime than having the charges dropped.

Protecting a loved one

During a new year's eve party, a guest was shot in the host's back yard. When the police arrived, the host's teenage son came forward and explained that the guest was arguing with his

father so the boy ran into the house, retrieved a shotgun and killed the guest. The boy was charged with first degree murder and obtained an attorney. Once the boy learned that he would be tried as an adult and face life in prison, he recanted his confession and explained that it was his father who actually shot the guest. A polygraph confirmed the boy's statement, the father was interrogated and confessed. We have also experienced the opposite situation, where a parent has confessed to protect a son or daughter who was involved in criminal activity.

Low Intelligence / Youthful offenders

In the previous New Year's eve killing, the boy's father told him that because he was a teenager he would not go to prison. It has been suggested that suspects who are young or have a low IQ may fail to understand the severity of consequences they face through their decision to confess. Consider an analogous situation: I believe most adults of average intelligence would pay the IRS a \$200 fine even though they contest the alleged error on their tax return; putting an end to the hassle, fear and frustration of dealing with the IRS is worth \$200. However, I doubt that the same taxpayer would be willing to spend even a day in jail as punishment for the contested error.

Suspects under the age of 16 who have had little contact with police, or suspects who have an IQ under 65 are statistically abundant in documented false confession cases. Certainly a confession coming from this category of suspect should be carefully scrutinized to make certain that it was obtained in the absence of a promise of leniency and that the confession contains corroborative information that originated from the suspect. When investigators are dealing with these vulnerable suspects, caution should be exercised to make certain the interrogations are not too lengthy, intense or psychologically manipulative.

Coercion

Many innocent people will confess to a crime if they are subjected to sufficient pain or threats of harm (coercion). This concept is fundamental to common law and, within the judiciary, there is zero-tolerance when it comes to coercion. For a confession to be admissible as evidence, it must be obtained without inflicting or threatening to inflict any physical harm to the suspect.

While coercion specifically relates to the suspect's physical well being, there is a related psychological circumstance which may have an even greater impact on false confessions.

Consider the following interrogation of an innocent mother in a case involving the death of her infant child.

“Martha, the fact that you can’t tell the truth about what you did to your child tells us you’re an unfit mother. You know what we do with unfit mothers? We place their children in foster homes. Your children will be placed in foster homes across the country and they will never see each other again and you will never see them. That’s what will happen if you don’t confess to shaking your child.”

When an innocent suspect is convinced that his denials will not prevent a prison sentence, loss of reputation, or loss of something else he values, in an effort to reduce or escape those inevitable consequences, certainly the suspect may be persuaded to confess. Under this circumstance, because the suspect is still under the threat of the consequence, the confession may not be retracted until the suspect feels it is safe to do so.

Duress

The average innocent suspect can answer questions and fend off persuasive interrogation techniques for many hours without being tempted, in any way, to confess. However, when the sessions become too lengthy, intense or unbearable, the innocent suspect may confess to terminate the conditions. *Duress* describes lengthy questioning, as well as deprivation of biological needs such as sleep, warmth or food. Unlike coercion, duress is considered by the courts on a continuum, in which a number of different factors are considered.

A homicide confession obtained after a ten hour interrogation from a mentally competent adult suspect who has waived his Miranda rights may be considered by most courts as legally admissible. However, a burglary confession obtained after a ten hours of interrogation of a 15-year-old suspect who did not have a parent or guardian present may be suppressed, partially as a result of duress. When evaluating the trustworthiness of a confession, it is important to recognize that some suspects are more susceptible to persuasive interrogation techniques.

Mental Illness

Following a heinous crime, it is not uncommon for innocent individuals suffering from mental illness to come forward and confess. Some of them are delusional and receive “messages” to confess. Others have lost touch with reality and believe they committed the crime. Some confess to seek attention or recognition. Most of these cases involve voluntary confessions (obtained in the absence of interrogation) which are readily identified as false because the confession lacks accurate corroboration.

This motivation presents a greater difficulty when the innocent suspect with a mental illness initially maintains his innocence, and confesses after interrogation. Innocent suspects with anxiety disorders are more susceptible to duress than the average population. With some depressive disorders, the individual may rationalize a false confession by convincing themselves that they deserve to be punished for some real or imagined past transgression.

The latter group of suspects are aware that they did not commit the crime at the time of their confession. These suspects were simply vulnerable to interrogation tactics that the mentally healthy suspect can easily resist. Consequently, mental illness and cognitive functioning becomes an important factor when considering duress.

Faulty Memory

Finally, an innocent person may be persuaded to confess if he has no recollection of his activities at the time of the crime but is convinced, after learning of evidence of his guilt, that he must have committed the crime. This is termed a *coerced internalized* false confession. There is generally a tangible cause for the suspect’s memory loss such as intoxication, head trauma, epilepsy or suffering from multiple personality disorder.

Once convinced of their guilt, these suspects may accept this as the truth, plead guilty in court and accept their prison sentence. Through time, therapy or happenstance, this suspect may question his guilt. But, as with the earlier suspect who confessed to obtain a warmer climate, he discovers that it is very difficult to undo a plea bargain.

Conclusion

Just because there are many possible motivations for innocent people to confess does not mean that most confessions are false. To the contrary, the average criminal suspect is more than capable of resisting standard interrogation tactics and a great deal of effort is required to persuade these individuals to tell the truth. But experience and scientific evidence proves that innocent suspects have confessed. Furthermore, each of these false confessions satisfied a particular motivation. Awareness of these motivations should assist investigators in selecting appropriate interrogation techniques for particular suspects and should also assist prosecutors and judges to identify confessions that may not be true.

With the above discussion in mind, the following represents some factors to consider in the assessment of the credibility of a suspect's confession. These issues are certainly not all inclusive, and each case must be evaluated on the "totality of circumstances" surrounding the interrogation and confession, but nevertheless, these are elements that should be given careful consideration:

1. The suspect's condition at the time of the interrogation
 - a. Physical condition (including drug and/or alcohol intoxication)
 - b. Mental capacity
 - c. Psychological condition
2. The suspect's age
3. The suspect's prior experience with law enforcement
4. The suspect's understanding of the language
5. The length of the interrogation
6. The degree of detail provided by the suspect in his confession
7. The extent of corroboration between the confession and the crime
8. The presence of witnesses to the interrogation and confession
9. The suspect's behavior during the interrogation
10. The effort to address the suspect's physical needs
11. The presence of any improper interrogation techniques

For more information on these issues go to Helpful Info at our web page www.reid.com and then click on the Critics Corner.

Credit and Permission Statement: This Investigator Tip was developed by John E. Reid and Associates Inc. Permission is hereby granted to those who wish to share or copy the article. For additional 'tips' visit www.reid.com; select 'Educational Information' and 'Investigator Tip'. Inquiries regarding Investigator Tips should be directed to Janet Finnerty johnreid@htc.net. For more information regarding Reid seminars and training products