How Do We Know False Confessions are a Problem?

1. Individual Case Accounts
- A number of individual case accounts of innocent persons who confessed (but were later proven innocent) have been detailed in the literature, and include:
  - Individuals who falsely confessed to a single crime (e.g., Peter Relify)
  - Multiple individuals who all confessed falsely to the same crime (e.g., the "New York Jogger" case)
  - Single individuals who confess falsely to multiple crimes (e.g., Jerry Frank Townsend and Frank T. Smith to serial murders committed by Cable Ford [Monday]

2. Systematic Analyses of Proven Wrongful Convictions
- The Innocence Project personnel have investigated claims of innocence among convicted defendants.
- As of February 26, 2009, over 232 persons have been freed, many via DNA evidence, other new evidence proving innocence, location of the true culprit, etc.
- Of these, approximately 25% made false incriminating statements or full confessions, or pled guilty.
- Other systematic studies of proven wrongful convictions have likewise shown that false confessions are indeed the most frequent causes of wrongful conviction.

Torture, the "Third Degree" and the Problem of Quality
- The law, legal scholars and the public recognize that information elicited through torture or overt threats or promises poses two problems:
  - Ethics
  - Quality

<table>
<thead>
<tr>
<th>Authors/Year</th>
<th>Number False Confessions</th>
<th>Percentage of Cases Studied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodau &amp; Radelet,</td>
<td>49/350</td>
<td>14%</td>
</tr>
<tr>
<td>Connors, Lundrogean,</td>
<td>5/28</td>
<td>18%</td>
</tr>
<tr>
<td>Miller, &amp; McEwen,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schuck, Neufeld, &amp;</td>
<td>15/62</td>
<td>24%</td>
</tr>
<tr>
<td>Dwyer, 2000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Innocence Project</td>
<td>25/140</td>
<td>17%</td>
</tr>
</tbody>
</table>
3. Compilation of Cases of Proven False Confessions

- Drizen & Leo, 2004 Compiled 125 cases of proven false confessions, located via electronic media, legal database searches, police reports, trial transcripts, articles and books.
- The authors researched as much source material on the cases as possible

Confessions Were Proven False in One of Four Ways

- It was proven that the alleged crime did not actually happen at all
- It was proven that the defendant could not possibly have committed the crime
- The true perpetrator was identified and his or her guilt was objectively proven
- The defendant was proven innocent via objective scientific evidence such as DNA

All Crimes to Which 125 Defendants Falsely Confessed

<table>
<thead>
<tr>
<th>CRIME</th>
<th># PEOPLE</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>100</td>
<td>61%</td>
</tr>
<tr>
<td>Rape</td>
<td>33</td>
<td>26%</td>
</tr>
<tr>
<td>Robbery</td>
<td>23</td>
<td>18%</td>
</tr>
<tr>
<td>Arson</td>
<td>7</td>
<td>6%</td>
</tr>
<tr>
<td>Assault</td>
<td>4</td>
<td>3%</td>
</tr>
<tr>
<td>Kidnapping</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Theft</td>
<td>2</td>
<td>1%</td>
</tr>
</tbody>
</table>

NOTE:

- Average length of interrogations:
  - 2 hrs (Leo, 1996)
  - 80% less than 30 min; 95% within 1 hr
  - (Pearse, Gudjonsson, Claire, & Rutter, 1998)

Age of False Confessors N=113

<table>
<thead>
<tr>
<th>Age</th>
<th># PEOPLE</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 10</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>10-13</td>
<td>5</td>
<td>4%</td>
</tr>
<tr>
<td>14-15</td>
<td>16</td>
<td>13%</td>
</tr>
<tr>
<td>16-17</td>
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<td>16%</td>
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<tr>
<td>18-24</td>
<td>31</td>
<td>27%</td>
</tr>
<tr>
<td>25-39</td>
<td>34</td>
<td>30%</td>
</tr>
<tr>
<td>40-54</td>
<td>7</td>
<td>6%</td>
</tr>
</tbody>
</table>

Multiple False Confessors to the Same Crime

- Drizin & Leo (2004) identified 38 cases (more than 30% of their sample) in which more than one defendant confessed falsely to the same crime
- 19 (or 50%) involved juveniles
- Ranged from 2 to 5 false confessors per case
4. Surveys of Convicted or Incarcerated Defendants

- Gisli Gudjonsson conducted surveys in which he asked respondents whether they had ever confessed falsely to any charge.

- Approximately 12% of inmates reported confessing falsely to police at some time in their lives.

Custodial interrogation, false confession and individual differences: A national study among Icelandic youth

Gisli G. Gudjonsson, \textsuperscript{1, 2} Jon Fridrik Sigurdsson, \textsuperscript{2, 3} Bjarni Bjorn Agnarsson, \textsuperscript{2, 4} Inga Edda Sigurjonsdottir

\textsuperscript{1} Department of Psychology, \textsuperscript{2} University of Iceland, \textsuperscript{3} School of Law, \textsuperscript{4} National Institute of Alcoholism and Drug Addiction Research, \textsuperscript{5} Iceland

Abstract

The recent surge of research on the role of the police in obtaining confessions has been largely driven by the growth in studies on custodial interrogations and their effect on the accuracy of confessions. The purpose of this study was to investigate the prevalence and characteristics of false confessions in Iceland. The study involved questionnaires distributed to police officers and a representative sample of the Icelandic population. The results indicated that false confessions were more common among the population than previously reported. The implications of these findings for the development of more effective interrogation procedures are discussed.

6. Laboratory Studies of Inducing False Confessions

- Saul Kassin has designed a laboratory procedure in which students have been led to not only confess falsely to crashing the experimenter's computer—but also to develop false "memories" of how they caused the crash.
Why Does False Confession Seem so Unlikely?
- The actual reasons for false confession are not obvious and often unseen (as when the interrogation is unrecorded):
  - Does not believe it is against his best interest
  - Often believes he will be let go
  - Often believes he will receive less punishment
  - Underestimate the power of the weapons of influence deployed to affect the suspect's decision-making
  - Underestimate how the situation itself affects decision-making
  - Failure to believe that "normal" people would confess

Two Questions To Be Addressed:
- How interrogations are conducted?
- Why people confess falsely?

False Confession: The Root Cause
Interrogating the Wrong Suspect

Humans as Lie Detectors
- Psychologists have conducted hundreds of studies of human ability to judge truthfulness versus deception
  - Accuracy rates are generally around 50%
    - This rate of accuracy applied to all professions, lay persons alike (only one study found secret service above chance)
    - Paul Ekman tested over 3,600 persons and found only 15% who could achieve 85% accuracy or better
  - One would do just as well to flip a coin
From Inbau et al. (2001) Interrogation Manual

- Referring to the author's sons' training in newspaper sales:

  - "With just a few minor changes of terminology, the boys... got basic training in criminal interrogation. Indeed, the principles involved in selling a product door to door are similar to those described in this text for eliciting confessions from criminal suspects. The investigator's 'product' is the truth, and a successful interrogator sells it in quite the same way as these boys were taught to sell newspaper subscriptions." (p. 31)

INTERVIEWING TECHNIQUES

- Various interviewing methods:
  1. Open-ended questions
  2. Leading questions
  3. Hypothetical questions
  4. Value-laden questions

The Same Principles of Influence Used in Countless Settings in Everyday Life

- Convince someone it is a good idea to do what you ask
- Make it so obnoxious for them to refuse that they comply just to escape

Interrogation Tactics Lead Suspects to Confess (Truly or Falsely) For Two Primary Reasons

- Intense interrogation-related stresses lead them to be willing to do anything
  - To terminate the interrogation
  - To be released
- They have become convinced that confession is in their best interests
  - Legally
  - Morally, and other reasons.
Rational Choice Theory
People choose to do what is in their best self-interest—the foundation of the rational choice perspective. Although

Stress-Induced Confession
- Stresses of the interrogation can be severe, particularly for vulnerable suspects
- Confession may be viewed as the only way to terminate the interrogation

Special Vulnerabilities to Stress-Induced Confession
- Impaired impulse control
  - Greater responsiveness to immediate than long term reinforcements and punishments
- Reduced ability to resist demands from authority
- Impaired ability to recognize other ways to terminate aversive situation

Example:
- "I don't know. All right. I'm--let me see--let me make something up then for you guys can, uh, leave me alone..." Calhoun, p. 43, line 18
- Det: "Why would you--why would you say you weren't?"
- Susp: "I'm just saying what y'all want me to say."
- Det: "Okay. But what you're telling us now is that you and Eugene and Jarrell were together, and you're telling us that because it's the truth or because it's what we want to hear?"
- Susp: "Because you—that's what y'all want to hear. That's what I want—I just want to get done with it—" p. 56, line 29

Example cont.
- Det: "Okay. Well, as soon—and I guarantee you as soon as we were confident that you're telling the truth, we'll be done. Easy as that True thing. Okay?"
- Susp: "All right." p. 56, 1-4
- NOTE: After this point the suspect tells the detectives that he is answering questions truth rather than that he is just telling them what they want to hear

Overall Strategy:
- Through, in effect, an extended "anti-Miranda warning," the interrogator works to convince the suspect that everything he says—preferably including a detailed confession to the crime at hand—can and will work to his benefit, whereas denial or failure to talk to his interrogator can and will be held against him
- Simultaneously, psychological and physical distress undermine capacity to think and the pressures to confess disappear
The Details

Detectives Are Trained to Use The Reid “Nine Step” Method of Interrogation or Similar Tactics

The Method

The First Rule of Persuasion: KNOW YOUR AUDIENCE!!

- Find out as much about your target as possible prior to the interrogation
- Conduct pre-interrogation interview for initial fact-finding and assessment of the target
Effective Stage Setting Entails Undermining Normal Sources of Resistance to Persuasion

A. Undermine Physical and Psychological Strength and Endurance:

- Stress, Fatigue and Self-Regulation

Interrogation Tactics Undermine Normal Sources of Resistance to Confession:
- Undermine tolerance for distress
  - Compromise Strength and Endurance
  - Increase Physical or Psychological Distress
- Undermine Conviction That Confession is Unwise
  - Compromise ability to think clearly
  - Undermine expectations of establishing innocence
  - Deflate suspects' strategies for convincing the detective of innocence
  - Undermine fear of negative consequences of confession
  - Keep attention away from any potentially negative results of confessions
- Undermine resistance to the source of influence
  - Promote liking and trust of the interrogator

Compromising Self-Regulatory Capacity
- Self-regulation refers to the ability to control oneself, including:
  - Control attention and thought processes
  - Control behavior
- Failures of self-regulation include:
  - Failure to control attention and focus upon relevant information (both new and information accessed from memory)
  - Failure to use cognitive resources to evaluate incoming information effectively
  - Failures to control behavior; inability to suppress responses triggered by the interrogator favoring the interrogator

The *Miranda* Court Recognized the Effect of Interrogation on Judgment
- "The entire thrust of police interrogation there, as in all the cases today, was to put the defendant in such an emotional state as to impair his capacity for rational judgment." (Miranda, p. 465)
Self-Regulatory Capacity is Easily Impaired
- Stress, unpleasantness, difficult social interactions
- Illness
- Previous exertions of effort or will
- Examples:
  - Resisting eating cookies impairs subsequent performance on problems of logic (and vice versa)
  - Stress during the day leads to dieting failures
  - Frustrating verbal interactions lead to poorer performance on problems of logic
  - Just thinking about spending much time alone compromises performance on IQ test and problems from other sources
  - Being in a relatively powerless position generally reduces self-regulatory capacity

Interrogations Compromise Self-Regulation in Two Ways:
- The interrogation may be conducted when the suspect is already sleep-deprived, suffering trauma, stress, or bereavement; exhausted from a full day's work or activity, or otherwise in poor physical or mental condition.
- The fact of being accused and interrogated, as well as the interrogation practices themselves, create stress and deplete self-regulatory capacity

Aversive Tactics and the Need to Escape: "Confess, or this will never end!"
- The stresses of the interrogation compromise the ability to exert one's free will at all, through depletion of self-regulatory capacity.
- However, they also compromise ability to exert will in the particular direction of refusing to confess.
- Confession may be viewed as the only option for terminating the stresses of interrogation or escaping confinement.

Interrogative Stresses Derive From Six Features of the Process
- Confinement
- Social Isolation
- Physical Discomfort
- Sense of powerlessness, helplessness and lack of control
- The aversive nature of the interrogation tactics
- Fear of legal and other consequences

****Research has shown all to compromise cognitive performance and other efforts

I. Choosing the Time, Place and Conditions of Interrogation

A. Isolation from Sources of Counter-influence
- At police station
- Without
  - Friends, relatives
  - Attorney
Innocent Suspects are Particularly Likely to Waive Miranda Rights

- Awareness of innocence makes them feel there is nothing to lose by undergoing interrogation.
- They will be seen as having something to hide if they refuse.
- Police try to persuade the person to talk to them.
- The suspect allows questioning to proceed with no thought that an attorney is necessary as they will be subjected to the external influences of topical interrogation.

Why People Waive Their Miranda Rights: The Power of Innocence

Saul M. Karas1 and Rebecca J. Norwick

In a laboratory experiment, 72 participants who were guilty or innocent of a made-up crime were approached for interrogation. Those who were asked nonspecific questions and were not encouraged to cooperate were more likely to waive their Miranda rights. The external influences of guilt, innocence, and perceived threat were found to be significant predictors of waiver decisions. The results have important implications for police practice and for the interpretation of Miranda rights.

Table 1
Percentage of Participants Who Agreed to Waive Their Rights as a Function of Guilt or Innocence and Interview Condition

<table>
<thead>
<tr>
<th>Interview condition</th>
<th>Suspect</th>
<th>Guilty (%)</th>
<th>Neutral</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N64</td>
<td>33</td>
<td>33</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td>I38</td>
<td>42</td>
<td>67</td>
<td>109</td>
</tr>
<tr>
<td>Total (%)</td>
<td>88</td>
<td>58</td>
<td>63</td>
<td>54</td>
</tr>
</tbody>
</table>


Note:
Suspects May Also Waive Miranda To Terminate The Interrogation Or To Escape Custody:

- Detective: "Now that we've discussed your rights, do you still want to talk to me."
- Suspect: "How I'm gonna get outta here if I don't talk to ya'll."

B. Interrogate When Suspect's Cognitive Functions, Strength and Endurance Are Already Compromised

- Alcohol
- Sleep Deprivation
- Fatigue
- Glucose Depletion
- Distress from Crime and/or Arrest

C. Interrogate Where Reminders of the Consequences of Confession Are Minimized

**Considerations in Setting Up an Interview Room**

- Wash a sense of privacy.
- Remove locks and other physical impediments.
- Remove distractions.
- Select proper lighting.
- Minimize noise.
- Arrange chairs properly.
- Create an observation room. If at all possible, equip the room with an electronic recording system.

---

**Keeping the Suspect's Focus Away From Consequences**

- **Minimize Reminders of Consequences**

---

**REAL WORLD**

**Case 3-2: Facing the Consequences**

One of the authors was assisting in the investigation of a multimillion-dollar inventory shortage at a warehouse. The loss prevention department had recently installed a specific zone for interviewing employees. The private zone was custom built, with an observation station and a recording device, and adhered to all recommended standards. Yet none of the employees interviewed by the loss prevention investigators provided any information.

In our knowledge of the ongoing thefts, it was very apparent why these interviews had been so unproductive. To date, the real identity in front of the person being interviewed was a large paper pad claiming "We Promise Shoplifters." Depicted in the poster was a person in handcuffs being escorted by two police officers.

---

**Keep Suspects' Focus Away From Legal Implications Of What They Are Being Asked To Confess To:**

- Never name the crime; instead, refer to "this thing," "this situation," and so on.
- Direct suspect to moral, social implications of failing to confess, rather than legal consequences of confessing to a crime.
- Refer to what you are doing as "cleaning house" or "straightening this out" or "get this resolved".

---

**II. Undermine Resistance to the Interrogator Through Likeability**

- Pre-interrogation interview
  - Be friendly and chatty
  - Tell stories emphasizing similarities to suspect
- The Set-up Question
- The Sympathetic-Detective With the Time-Limit Offer
- Argue Against Self-Interest

---

**The Liking Principle**

**LIKE ABILITY FACTOR**

*How to Win Friends & Influence People*

*DALE CARNEGIE*
Liking:
The Friendly Thief

III. Establish Authority

FROM BARON & BYRNE, SOCIAL PSYCHOLOGY

Extreme Influence in the Laboratory

- Milgram studies of obedience to authority
  - Participants were led to give potentially lethal electric shocks to another person by the request of a person in authority (shocks were not actually delivered, but the participant believed they were)
  - The person had no real authority, just the "experimentor" in a study for which participants volunteered in exchange for $4.50

Interrogators Explicitly Acknowledge the Effectiveness of the Authority Principle

INTERVIEWING TECHNIQUES
What Did Experts Predict Subjects Would Do?

- Milgram described the procedures to 40 psychiatrists at a leading medical school and asked them to predict the results.
  - Predicted that fewer than 4% would continue once the learner stopped answering.
  - In fact, more than 80% continued past this point.
  - Predicted that only .01% would go all the way to the end.
  - In fact, 65% persisted to the end, defying an invasive voltmeter, sharp screams, his claims of heart trouble, and eventually, being escorted.

The Interrogator and Authority:

Establishing the Interrogator's Control Over the Suspect's Fate

Direct Claims of Authority and Credibility

- DeAngelo: Let me explain to you what I do. My job, and how it plays into the situation and how we are going to be able to resolve this quickly before you came. Okay? I'm an investigator for the DA. My background is my work at big-city law enforcement the majority of my career. I was once detached service with the FBI and the Prosecuting Attorney as a Full Grand Jury Investigator in that capacity. I worked large-scale public corruption cases, cold homicides—serious sex abuse cases, child abuse cases—those types of things. Okay? Took some time off, went to grad school, I studied psychology, and then came back to work for the DA's Office, and that's what I do here.
- My specialty is this kind of investigation and they asked me to make an absolute, definitive determination as to what happened in this particular case—with you and Will. Okay. Now, so that's what I've done. As part of that process, as you can imagine, you've seen a little bit on TV, but it's quite simple, as you can imagine. But I take advantage of various forensic contacts I have—the labs, the locals, CSIs for a higher level of analysis, various other forms of forensic analysis, computer, etc. Okay. And that's what I've done with your case.
The "Set-UP Question"

Toward the beginning of the interrogation, detectives ask something like:

Tell me Jack, what do you think should happen to the person who did this thing? Should he just go to jail, or are there some circumstances under which he should be given a second chance... maybe get counseling instead of jail?

Set-up Question w/Gallo

Det: "What kind of punishment should somebody who did something like this get?"

Susp: "I don't know."

Det: "Would somebody who did this deserve a second chance?"

Susp: "Honestly don't know."

Effects of the Set-up Question

a. Frame the Issues

Tell the suspect that the purpose of the interrogation or interview is not to establish whether the suspect did the crime, but rather why it was committed, and what kind of person the suspect is.

Flatter the suspect by telling him the detective doesn't believe the suspect is a bad person, but rather that the crime was committed for understandable reasons or under extenuating circumstances, and if true, this information is "important to know."

The Sympathetic Detective with The "Time-Limited Offer"
b. Flatter the Suspect, Give Them a Limited Offer of Help:

- Detective states or conveys the impression that (s)he believes the suspect is a good person, who just got into a bad situation, and that (s)he wants to help the suspect.
- States or implies that this "help" can only be given in the context of the current interaction (and only if suspect "tells the truth" i.e., confesses to what detective assumes (s)he has done).
- States or implies that once the interrogation is complete, the case will be handled by others with less sympathetic motivations. Hence, failure to confess and further interrogation will do far reaching damage to the case.

Your Guilt is Established: This is Your Chance to Explain

- DeAngelo: Through my investigation I am definitely going to determine that you did in fact, on at least two occasions, place your penis inside Willie Bottom. Okay? ....when I leave here, I've got to tell my people, is this a really bad guy or is this guy simply in need of some help and we just have some issues to clear up. I can't tell you what happened, I can't tell you the psychology, necessarily why it happened. Does that make sense?...maybe there is some medical issues, maybe there are some psychological issues as to why these things occur. And we take these into account. We look at "are we looking at a bad person here? Or are we looking at somebody needs some help and that we can resolve issues." And the fact that you came in today shows and of itself that you really want it resolved and you want it for a good thing. That's a good start at getting this done....you agree with that? (p. 3)

Sympathetic Detectives with Gallo:

- Det. DeAngelo:
- "...some people are just plain jerks who want to physically hurt children. Okay? I don't believe that is the case in this situation....I think you're a decent guy. I really do." (p. 4)

The "Sympathetic Detective" Argues Against Self-Interest

- It is well known that agents of influence with something to gain are less effective.
- Detectives are specifically told to "argue against self-interest"—
  - Tell suspects they don't need a confession to make the case.
  - They are there to help the suspect get the chance to "explain" and maybe make himself.

Sympathetic Detective Tactic Includes Threat of Consequences if Suspect Fails to Take Advantage of the Offer Before it is Too Late
Tell "Your Side of the Story" Before It's Too Late!

- Detective presents the interrogation as a unique opportunity to establish:
  - Why and how the crime was committed
  - What kind of person the suspect is
- States or implies that these interpretations will affect:
  - Subsequent police investigations and conclusions
  - Whether the suspect is charged and, if so, with what crime
  - Ultimate reactions of judges and juries if the case goes to trial
- States or implies that if suspect does not establish these issues during the interrogation:
  - Other parties or co-perpetrators may determine the way the case is viewed and handled
  - The police investigation will not be as helpful to the suspect
  - Prosecutors, judges and juries will not be sympathetic

The Time-Limited Offer to Tell "Your Side of the Story"

- DeAngelo:
  - "I want you to tell me, so we can work through this so that we can resolve this issue. Okay? As to your side of the story, and your events, and the events that occurred between you and Will, Okay? Are you willing to do that at this point? Because I need to leave here and I need to be able to tell my people, "Hey, Mr. Gallo wants to resolve this in a manner that we can... So I want to go out of here and tell my people, "He's not what some people may perceive him to be" Does that make sense?" (p 4)

The Time-Limited Offer to Tell "Your Side of the Story"

- DeAngelo: "I think you're a good guy. I--again, and I think you are a good guy and I think you want to resolve this. Am I correct?"
- Susp: "I want to resolve this"
- DeAngelo: "Okay, and we need to start by being honest, okay?"
- Susp: "I am."
- DeAngelo: "Okay. To do that, we need to be able to resolve this. You have to be honest with me and tell me the events that occurred with you and Will, Okay? Because the physical evidence is one thing, I don't wanna go out there and tell my boss... no, he's a bad guy, he's not being honest with you. They look at that and we look at that in a much different manner and a much different light than if we have a person who is, has mitigating factors as to why this occurred. Does that make sense?"

The Sympathetic Detective Tactic Embodies Several Principles

- Liking
- Flattery
- Labeling
- Scarcity
- Reactance
- Reciprocit
- Authority
Effects of the Sympathetic Detective Tactic

- Detective is perceived as having more choices over whether and which charges to file, whether to send the suspect to counseling or let him go.
- Detective is perceived as:
  - Liking the suspect more
  - More interested in helping suspect get least serious outcomes (more trustworthy)
  - Less likely to believe the suspect guilty
  - Less likely to want to see suspect convicted

Framing the Issues: Taking Innocence off the Table

The "Borg Maneuver" Resistance is Futile

- Step 1 of the Reid Nine Step Method
- "Positive confrontation", whereby the suspect is apprised that the investigation conclusively indicates that the suspect is the guilty party
- Detective refers to evidence against the suspect, which may include both true and fabricated or flawed evidence
- False evidence may include false results of polygraph, falsified eyewitness evidence, false assertions concerning DNA, fingerprints, or other trace evidence and other physical evidence and co-perpetrator witness or victim claims

The Reid Nine Steps of Interrogation

- Police fabrications of evidence and other tactics have convinced the suspect that (s)he has been successfully caught or framed, and that (s)he will be unable to prove innocence (coerced-compliant confession)
- Attention shifts to how to minimize the consequences
- Police convince the suspect that (s)he must take advantage of the detective’s “help” during the interrogation process to achieve the best legal outcomes—often through confession.
Surveys and studies of cases of false confession have found that the most powerful reported reason for confession among both guilty and innocent suspects is the defendants' perceptions of strong evidence against them.

Laboratory studies have also demonstrated that confronting a person with "evidence" against him increases the likelihood of false confessions.

Reinforce the Suspect's Sense of Futility Throughout the Interrogation

- Detectives are trained to never allow suspects to believe that denials will be effective:
  - Interrupt suspects to prevent them from even voicing denials—and generally dominate the interaction
  - Convey absolute confidence in suspects' guilt at all times
  - Counter any arguments or evidence of innocence offered by suspects with statements that the detective knows is not true, and with claims or offers of evidence not refutation


- Archival study of actual interrogations:
  - 23.4% of suspects made incriminating statements when "evidence" presented by interrogators was rated as weak
  - 66.7% did so when "evidence" was rated as strong
Effects of the "Borg Maneuver"

- Undue to self-regulatory capacity and will to resist by
  - Increasing stress
  - Instilling sense of hopelessness
- May convince both innocent and guilty suspects that they will be convicted
- May convince innocent suspects that they must have committed the crime, despite failure to remember it
- Shifts suspects' focus from how to establish innocence to how to mitigate legal penalties
- May shift innocent suspects' focus from denial to scapegoating others

Statements of Case Against Gallo

- DeAngelo: "Through my investigation I am definitively able to determine that you did in fact, on at least two occasions, place your penis inside Wills bottom. Okay? It goes without saying in the particular case." (3)
- "We can definitively show what happened on at least two occasions, I don't know if it happened on more, and would need you to fill in some of the details for me......But we can definitively show it happened at least on two occasions.

Statements of Case Against

- DeAngelo: "I take advantage of many of the various contacts I have—the feds, the locals—for a lab analysis—DNA analysis, various other forms of forensic analysis, psychological analysis, etc...Okay? And that's what I've done in this case."
- Refers to:
  - Will's statements (detail of these statements)
  - Forensic evidence of his anal penetration at Will's

Setting the New Agenda

The "Pretext" For Continuing the Interrogation

Notice the many weapons of social influence included in such statements.
- Sets the agenda for what will be discussed, and frame the underlying issues to be addressed by the discussion.
- Making use of the "psychology of inevitability" (we are less likely to try when success seems impossible), he minimizes resistance by taking innocence off the table ("How Sam, there is absolutely no doubt that you did this.").
- Referring to the results of "our" investigation rather than "my" investigation, he lends credibility to his claims of proof of guilt via the influence principle "social proof" (we are more likely to believe something endorsed by more people);
- Sets an agenda to discuss issues he casts as relevant to the actual events of why you did this, and in doing so, decoupling blame from the actual event of why you did this.

"The reason I wanted to sit down and talk with you about this...there is one subside of someones did something is often much more important than whether..."

"How Sam, there is absolutely no doubt that you did this. What I need to establish with you right now is what kind of person you are..."

"Joe, The only reason I'm talking to you now is that we don't know how many other homes in that area you have entered. There is no question, you went into the home on Wilson Avenue last weekend. My concern is that we have over 20 unsolved burglaries within a two-mile radius of that home...Now if you're involved in all those other 20 burglaries, quite frankly, I wouldn't expect you to say anything. But, Joe, if you're not involved in all of these, if it was a lot less than 20, we need to talk about because it means that there is someone else out there responsible for those. The last thing I want to have happen is for you to be blamed for something you didn't do. That's why I'm talking to you now..."

(Recommended statements to suspect regarding social influence during interrogation: Inbau et al. [2001], p. 222-223)
Notice the many weapons of social influence included in such statements.

- Reinforcing the messages of the "Sympathetic Detainee" and "Set-up Question" tactics, he implies there are choices about how to handle the suspect ("The reason why someone did something is often much more important than what he did." "What I need to establish you right now is what kind of person you are.").
- Why, after all, would one want to know these things in this legal context if they didn't matter for legal outcomes?
- All the while, he again "argues against self-interest," as he suggests he is there only to help the suspect (the last thing I want to have happen is for you to be blamed for something you didn't do. That's why I'm talking to you now.)

The Guilt is Established: This is Your Chance to Explain

- DeAngelo: Through my investigation I am definitively able to determine that you did in fact, on at least two occasions, place your penis inside Wille's bottom. Okay?
- "...when I leave here, I've got to tell my people, is this guy really a bad guy or is this guy simply in need of some help and we just have some issues to clear up...I can't tell you what happened, I can't tell you the psychology, necessarily why it happened. Does that make sense?...maybe there are some medical issues, maybe there are some psychological issues as to why these things occur. And we take those into account. We look at "are we looking at a bad person here? Or are we looking at somebody needs some help and that we can resolve issues." And the fact that you came in today, that is in...and of itself that you really want it resolved in a good thing. That's a good start to explain why..."

Phase II
The Carrot and The Stick:
Communicating Threats and Promises of Leniency to Promote the Perception That Confession is Rational

Rational Choice Theory
People choose to do what is in their best self-interest—the foundation of the rational choice perspective. Although

Essential Tactics

- Compromise suspect's ability to think clearly and control behavioral impulses
- Use deceptive interrogation tactics to make the decision to confess appear to be the most rational choice under the circumstances
Essential Tactics
- Control the alternatives a person considers
  - Limit attention to certain facts and issues
- Influence how those alternatives are understood
  - Present false information/evidence
  - Bias person's interpretation of facts and evidence

Failure to Understand the Implications of Confession
- Innocent persons often believe that once they confess, subsequent investigation will clear them
- Do not understand prejudicial effects ranging from investigation through appeal—and difficulty discounting the confession.
- Police tactics lead the person to believe that they will not be charged at all, or will just be charged with a serious crime.

A. The Carrot: Communicating Promises of Leniency Through Sympathy, Flattery, and Theme Development

Helping the Suspect "Tell His Side" Through "Theme Development"

The Reid Nine Steps of Interrogation

Step One  DIRECT POSITIVE ACCUSATION
- Make the suspect believe that the interrogator is right and that is the only way to clear his name.

Step Two  HANDLING DEFEAT
- Make the suspect believe that he was not truthful and that the interrogator knows it.

Step Three  HANDLING DEFEASIBLE
- Make the suspect believe that he has no other way out but to confess.

The Goals of "Theme Development"
- Reinforce the suspect's own rationalizations and justifications for the crime
- Make it easier for the suspect to confess by allowing him to save face
- Suggest positive incentives for confession—such as relief of guilt, "doing the right thing," gaining social approval for taking responsibility, etc.
- Provide scenarios for how and why the crime occurred that do not seem legally sound.
The Problem:

- Interrogators and manuals (e.g.,link to manual) claim that the investigator's themes will NOT communicate threats or promises of leniency to the suspect.
- Substantial evidence demonstrates that suspects and others DO understand theme-related statements to imply consequences for legal outcomes.
- These strategies are largely responsible for suspect beliefs that detectives will let them go if they confess.

Use General Strategies of "Minimization" and "Maximization"

"Maximization"

Scare tactics designed to lead the suspect to believe that the magnitude of the charges and penalties will be greater if he refuses to confess.

"Minimization"

Tactics that lead the suspect to believe that the seriousness of the charges and penalties will be less if he confesses than if he continues to resist.

THEME SELECTION

- Themes are selected in part on the basis of the pre-accusatory "interviews" in which the detective
- Evaluates the suspect for deception and probable guilt
- Evaluates the emotionality of the suspect to assess vulnerability to guilt and anxiety
- Finds out information about the suspect to be used in interrogation themes

1. Others Would Have Done the Same

- Many people do this
- Anyone else would have done this in these circumstances, investigator included
- Investigator has friends or relatives who have done this
- Convey sympathy and understanding for why it happened
2. Minimize Moral Seriousness
- The investigator has seen far worse things.
- Compare the offense with more serious offenses of the suspect and/or others.
- Suggest that the offense is quite common.

3. Suggest a Less Reprehensible Motive Than Presumed
- Accident
- Financial need vs. greed
- Intoxication or drugs caused the crime
- Unplanned, but things got out of hand
- Self-defense
- Blame the suspect's emotional state
- Entertainment vs. urge to kill or destroy
- Meant to protect or help friends or family

Using "Contrast"
Raise Fear of More Serious Charges To Motivate Confession to the Lesser Crime
- Example:
  State that the alleged victim of statutory rape is claiming forced intercourse to motivate the suspect to admit to statutory rape to avoid the more serious charge.

4. Sympathize With the Suspect by Blaming Others
- Blame the victim
- Blame co-perpetrators
- Blame societal changes in values
- Blame others for the need for the crime (e.g., financial burden that causes robbery)
- Blame parents, relatives of the victim, home life, suspect's neighborhood
- Blame circumstances

Example from murder case:
- "Even if you did shoot somebody, sometimes that happens for a reason. I mean sometimes there's such a thing as self-defense, you know. Maybe those guys did because those guys are knuckleheads. Yeah, maybe they didn't deserve to die. But sometimes, you know, sometimes these guys bring it on themselves..."

5. Appeal to the Suspect's Pride Through Flattery
- Flatter the suspect to increase positive rapport with the detective, to increase belief that detective is on the suspect's side, to undermine resistance to the detective's requests.
- Flatter the plan or execution of the crime to motivate the suspect to take credit
- Compliment the suspect's sense of morality, conscience, or sense of responsibility to motivate to "do the right thing" and take responsibility for the crime.
Themes Recommended for "Non-Emotional" Offenders
(Those who ordinarily do not experience a troubled conscience)

Themes for Non-Emotional Offenders
Focus Upon:
- Eliciting more innocuous admissions (e.g., presence at the scene) as a stepping stone to gaining larger admissions
- Suggesting non-criminal intent for the act
- The existence of overwhelming proof of guilt
- Playing co-perpetrators against one another

Specific Themes for Specific Crimes are Listed in Various Publications such as This One

Anatomy of Interrogation Themes

Louis C. Senese

Emotion of the Interrogation Impression

It is a fact that people can be influenced by the impression they create.

In practice, it might be appropriate to place blame on the victim's parents or the school system. The following illustrates this theme:

"It's the reason we are dealing with a theme or any type of crime, is that parents and the school system are not doing the responsible thing to teach children about sex. When you and I were growing up, our parents would do what was right, tell us about sex. But today, parents often wait until their child is at least 10 years old before they tell them. This is not enough to protect them because they are still at risk. What happened to your family in that situation?

We must stop this problem in our schools and communities. We must start teaching children about sex. By doing so, we can help prevent such things from happening and we need methods that will not only teach children about sex, but also show them how to handle such situations."

Themes Which Blame Alcohol of Medication

Because sexual contact with a child is often the subject to acknowledge, it is usually recognized as such that no judgment was involved. Because your reason for drinking or because of medicinal purposes. The elements of this theme would be:

"Mark, you mentioned that you were drinking that afternoon, and then you fell asleep. Don't worry, it's not a problem."

If these types of themes are used, give the subject the advantage of the doubt. You cannot always determine the truth of the situation, because he was too drunk to tell the truth, and you must not assume any guilt.