False Confessions:

Reasons People Confess to Crimes They do not Commit

-Quentin Bushon

Abstract

In criminal trials, a person’s admission of guilt usually results in a sure conviction and sentence. End of story. The perpetrator takes responsibility and we move on. Sometimes though, that is not the end of the story. Often, and more times than one would think, a person will confess to a crime they did not commit. People intuitively feel that they would never confess to something they did not do. But, for one reason or another, it happens. When we hear of something like this, it is simply hard to comprehend. We ask, why would a person do such a thing? In high profile cases, such as the John Mark Karr confession in the JonBenet Ramsey murder, forever etched in our memory as a result of 24/7 media coverage, we can somewhat understand the motivation, publicity. The reasons become bizarre and somewhat surreal when fame is not the issue. Saul Kassin, a professor of psychology at the John Jay College of Criminal Justice, and Gisli Gudjonsson, a professor of forensic psychology at the Institute of Psychiatry at King’s College in London, have found that while some people make voluntary false confessions for secondary motives, such as Karr, the majority are brought on by some type of coercion in the interrogation process. False confessions are often given after intense questioning, many times using deceit and trickery on an already isolated and sleep-deprived suspect. Under the pressure, people cave and confess even though they know they
are innocent. Thinking everything will get sorted out later, little do they know, a confession usually trumps evidence in most cases.
Introduction

Anyone who has ever watched television or read a supermarket tabloid remembers the name of JonBenet Ramsey. One might not remember John Mark Karr, but he was the person who confessed to her sensationalized murder. More recently, there is the bizarre case of Amanda Knox, an American exchange student convicted of murdering her roommate in Italy. Then, there is Antonio Yarbough, Michael Crowe, Eddie Joe Lloyd, Paul Ingram, and Chris Ochoa, who are not as well known. These individuals all belong to the same club, confessors to murders they did not commit.

Why would anyone confess to a crime he or she did not commit? In a few cases, attention is the motivation, but in the majority of false confession cases, the reasons are more complicated. A sequence of events occurs, usually beginning at the police station in an interrogation room and ending with a jury trial resulting in a wrongful conviction. There are a multitude of factors that contribute to false confessions and have become a challenge to our criminal justice system.

Types of False Confessions

A search of the literature indicates there are a number of different ways a person can falsely confess to a crime, seeking attention being just one. Saul Kassin, a professor of psychology at the John Jay College of Criminal Justice, has categorized these into three general areas: voluntary false confessions, compliant false confessions, and internalized false confessions.¹ Along with Kassin, another researcher, Gisli Gudjonsson, a professor of forensic psychology at the Institute of Psychiatry at King’s College in London, has identified a range of
important emotional and psychological factors that make it easier to place false confessions into one of the three categories.²

Voluntary False Confessions

People sometimes do strange things to gain the limelight, or get their “fifteen minutes of fame.” Confessing to a crime, especially a capital crime seems to be a little extreme, but there are those who do. Kassin describes it as, “a pathological need for attention.”³ If attention is truly the motivation, it is not a phenomenon that just recently emerged with blanket, 24/7 news coverage, such as seen on CNN or MSNBC where the transmission of instantaneous live satellite images guarantees a person can become a household name overnight. In 1932, over two hundred people voluntarily confessed to the kidnap/murder of Charles Lindbergh’s son.⁴ In 1947, the murder of Elizabeth Short, the subject of a popular movie, Black Dahlia, produced dozens of voluntary confessions.⁵ The case remains unsolved, no convictions.

Individuals who are voluntary false confessors usually do so with little or no external pressure or prompting from police, and the classic example is John Mark Karr. He truly may fit the pathological desire for notoriety as Kassin suggested. Moffa and Plantania chronicled the story of Karr, a 41-year-old elementary school teacher living in Bangkok, Thailand.⁶

Approximately ten years after the murder, which had gone cold, Karr began corresponding with Michael Tracey, a journalism professor at the University of Colorado. The emails and phone calls became more and more bizarre, eventually resulting in Karr confessing that he accidentally killed JonBenet while inducing asphyxia for his sexual gratification. Claiming he could not revive her, he struck her in the head with a blunt object. Knowing that Tracey was
writing a book on the Ramsey case, Karr said if the book became a movie, he wanted to be
played by Johnny Depp. Tracey eventually alerted the district attorney's office.

Thinking they finally had their man, the Boulder police working with Thai police arrested
Karr charging him with first degree murder. Karr immediately objected, saying the killing had
been accidental and the charge should be only second degree murder, confessing again. After
just four days in Boulder, the wind went out of the police sails when it was discovered that
Karr’s DNA did not match the crime scene evidence. Karr was released, no Johnny Depp and his
fifteen minutes of fame gone.

While attention is one factor that characterizes this type of confession, there are
certainly other factors. Among them, a conscious or unconscious need for self-punishment to
expiate feelings of guilt over prior transgressions; an inability to distinguish fact from fantasy
due to a breakdown in reality monitoring; or a desire to aid and protect the real criminal are
three other scenarios posed by Kassin and Gudjonsson.7 Even though people in this group are
not pressured to confess, they obviously have “emotional and psychological” issues that lead
them down this path.

Compliant False Confessions

The second category, compliant false confessors, is an interesting mix. Prominent in this
group are those who are induced through police interrogation to confess to a crime they did
not commit. When reading about someone confessing like this, the first thing that comes to
mind is “no way.” How could someone possibly confess if they were not guilty of something?
People do not confess to crimes they do not commit. Unfortunately, the literature is filled with
stories of “ordinary” people who served long sentences, and have even been executed, for crimes confessed, but not committed. According to Kassin and Gudjonsson, this group confesses for one of three reasons: “to escape an aversive situation, to avoid an explicit or implied threat, or to gain a promised or implied reward.”

In 1936, three black men in Mississippi were charged with the murder of a white farmer. The sheriff who conducted the interrogation was convinced of the men’s guilt to the point of stripping each and beating them with a leather strap with heavy metal buckle. The three eventually signed a “police written confession” to the murder. Even though these confessions were given to “escape an aversive situation” which was illustrated at trial, they were still convicted by an all-white jury. The Supreme Court eventually overturned their death sentences, but the men spent many years in prison before being released with the Brown vs. Mississippi decision that banned violence-induced interrogations in order to obtain a confession. In the decision, the court concluded that Mississippi authorities had conspired to extract a coerced and untruthful confession and held that confessions obtained through physical coercion violate suspects’ fundamental rights and constitute a violation of the Due Process Clause of the Fourteenth Amendment. Additionally, the Court explained that reliance on unreliable confessions creates the risk that innocent individuals will be condemned to lengthy terms of imprisonment or even death. This case, of course, is an extreme example, but one that illustrates what can happen if someone is in the wrong place at the wrong time with insufficient means of a defense.

In 1944, the Supreme Court extended the protection of the Due Process Clause to include psychological coercion. Joe Ashcraft confessed to soliciting the murder of his wife after
having being detained and subjected to incommunicado interrogation for thirty-six hours (with one five minute break) by a tag team of police officers. The Supreme Court concluded in Ashcraft v. Tennessee that his confession was the product of a coercive set of circumstances that overwhelmed his ability to exercise a rational choice (discussed later) and observed that the “efficiency of the rack and the thumbscrew” is matched by equally effective techniques of psychological persuasion.\textsuperscript{11}

Stambor, studying this phenomenon, describes an example of another false confession that happened in Austin, Texas, in the late 1980’s.\textsuperscript{12} Chris Ochoa was working at a Pizza Hut and saving up money to attend college. At another Pizza Hut, an employee was raped and murdered one evening. Employees at the victim’s Pizza Hut claimed they had heard Ochoa and his roommate, Richard Danziger, toasting their co-worker’s death. They were picked up and interrogated for over twelve hours. The interrogators basically told them to confess and get a life sentence or refuse and get the death penalty. When Ochoa asked for an attorney, interrogators told him he didn’t have the right to one because he hadn’t been charged with anything. They shoved photos of death row cells in his face and told him that this was where he was going to spend the remainder of his life. To avoid “an explicit or implied threat” Ochoa confessed, thinking things would get sorted out at trial. Little did he know that a signed confession generally outweighs evidence in nearly all murder trials. He and his roommate were convicted and spent the next twelve years in prison before someone else confessed to the crime.

In another case, and one recently back in the headlines, involves the interrogation induced false confession of Amanda Knox in Italy. The circumstances involved in this murder
and eventual conviction were highly sensationalized in the media, 24/7 coverage. Miss Knox, a twenty year old student from Seattle was accused of participating in the gruesome murder of her roommate, Meredith Kercher. The Italian police had DNA evidence on the actual murderer, but still went after Knox.

The interrogators, similar to what happened to Ochoa, used many of the same tactics. She was not allowed to have an attorney and was told that things would be worse if she demanded one. She was slapped repeatedly, called a liar, and told she would be spending the next thirty years in prison if she did not confess. Kassin describes one technique where she was asked to imagine hypothetical scenarios while the interrogators fed her information that they wanted her to imagine. After five days with little sleep, water, or food, she caved. Two “confessions” were produced on the fifth day detailing what Knox called a dreamlike “vision.” Both were typed by police, one at 1:45 am, the second at 5:45 am. She recanted the confession a day later, but it was too late. On December 5, 2009, an eight-person jury convicted Amanda Knox for murder, sentencing her to twenty-six years in prison.13

It appears that the younger a person, the more vulnerable they are to interrogation-induced confessions. Considering the young accused, Kassin describes another sensationalized case from 1989 in which five African and Hispanic American boys, fourteen to sixteen years old, were accused of the beating and sexual assault of the “Central Park Jogger.” These young boys were “intimidated, lied to, and coerced into giving confessions.”14 Among the lies, the boys were told that their fingerprints had been found at the crime scene; hair samples were found that linked them to the crime scene; that one of the boys had implicated the other two; and were told they could go home if they confessed. Even though there was DNA evidence
excluding the five teenagers, prosecutors and the press dismissed this powerful evidence because the false confessions had already “trumped their innocence.” In 2002, the charges were vacated by District Attorney Robert Morgenthau after a convicted murderer and rapist admitted that he alone was responsible for the attack on the jogger.

Another case involving teenagers is one of the most recent false confession exonerations. On June 18, 1992, Antonio Yarbough, 18, came home to find the dead bodies of his mother, sister, and one his sister’s friends. All three victims had been stabbed multiple times and choked with electric cords. After calling police, he was taken to interrogation along with a friend who was with him earlier in the day, Sharrif Wilson, 15. During intense interrogation without council, both were lied to, slapped, and told things would go easier on them if they signed a confession, even go home. Wilson caved, signed the confession and in the process implicated Antonio. Wilson was tried first and despite explaining in detail to the jury how the police coerced him into falsely confessing to the crime, but he was convicted. Likewise for Yarbough, a conviction without a shred of evidence linking either of them to the crime scene. Lucky for them, DNA found under his mother’s fingernails revealed that the real killer went on to kill again in 1999 while Tony and Sharrif were locked up. Despite protests and delays from the prosecutor’s office, the DNA was eventually tested and revealed the boys, now men, were innocent.15

A classic study conducted by Drizin and Leo shows young people, especially teenagers like Wilson and Yarbough, are over-represented in false confession cases. In their examination of proven false confessions between 1971 and 2002, 63% were under the age of twenty-five. As can be seen from Table 1, teenagers comprised about a third of the sample.16
Table 1. *Age of Proven False Confessors (N=113)*

<table>
<thead>
<tr>
<th>Age Range</th>
<th># People</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Under 10</td>
<td>2</td>
<td>2%</td>
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<tr>
<td>10-13</td>
<td>5</td>
<td>4%</td>
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<tr>
<td>14-15</td>
<td>15</td>
<td>13%</td>
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<tr>
<td>16-17</td>
<td>18</td>
<td>16%</td>
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<tr>
<td>18-24</td>
<td>31</td>
<td>27%</td>
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<tr>
<td>25-39</td>
<td>34</td>
<td>30%</td>
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<tr>
<td>40-54</td>
<td>7</td>
<td>6%</td>
</tr>
<tr>
<td>Over 55</td>
<td>1</td>
<td>1%</td>
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Kassin and Gudjonsson have identified some very specific incentives for the type of compliance that teenagers often exhibit, such as being “allowed to sleep, eat, make a phone call, go home, or, in the case of drug addicts, even feed a drug habit.” Many personality types cannot stand up to such interrogations, especially the young or mentally handicapped, as was illustrated in the case of the Central Park teenagers. Juveniles are more compliant, especially when pressured by adult authority figures. Clearly, juveniles tend to be more susceptible to confess in response to police interrogation, especially a coercive interrogation.
**Internalized False Confessions**

The previous examples illustrate that perfectly sane people who know they are innocent can confess under certain conditions. They simply want to escape the interrogation process.

The third category of confessions deal with individuals who for one reason or another are induced to believe they are guilty, the internalized false confession. In this scenario, interrogators may suggest that the person has simply repressed the memory of the event. Sometimes, interrogators lead the suspect by filling in evidence details for them. Eventually, some individuals, vulnerable to such tactics, become convinced of their guilt and offer an “internalized” false confession. The strange case of Eddie Joe Lloyd, convicted of the murder of a sixteen-year-old girl in Detroit in 1984, illustrates this category of confession.  

While in a hospital receiving treatment for his mental illness, Lloyd wrote to police with suggestions on how to solve various murders in the city, including the murder of the teenage girl. Police officers visited and interrogated him several times in the hospital. During the course of the interrogations, police officers allowed Lloyd to believe that, by confessing and getting arrested, he would help them "smoke out" the real perpetrator. Police fed him details that he could not have known, including the location of the body, the type of jeans the victim was wearing, a description of earrings the victim wore, and other specific details from the crime scene. Lloyd signed a written confession and even gave a tape recorded statement, which he later retracted saying the police had tricked him into a confession. At trial, the prosecution played the confession to the jury and after deliberating for less than an hour, convicted him of
first degree felony murder. He served seventeen years in prison before being exonerated in 2002 by DNA testing after the Innocence Project took his case.

In a similar case described by Kassin and Gudjonsson, 14-year-old Michael Crowe confessed to the stabbing death of his sister, Stephanie.\(^{19}\) He at first denied involvement, but after three intense interrogation sessions, lasting twenty-seven hours, in which he was told his hair was found in his sister’s grip, his blood in her bedroom, and that he failed a lie detector test, all false information, he confessed. Michael was lead to believe that he had a split personality and that the “good Michael” had simply blocked out the incident. Luckily, a vagrant was later found with Stephanie’s blood on his clothing and the charges against him were dropped, giving Michael a new lease on life.

The two above cases involved confessions that were primarily induced by interrogator deceit and trickery, a perfectly legal tactic. There are also instances where other influences come into play. Take the strange case of a sheriff’s deputy in Olympia, Washington. Paul Ingram was accused of the sexual abuse of his two teenaged daughters who were counseled to do so by church officials. According to Wright, Ingram was “subjected to twenty-three interrogations over a period of five months and was coerced by his church minister to confess.”\(^{20}\) As a member of the Church of Living Water, Ingram was told that Satan could cause a person to “commit terrible acts, and then wipe their memory clean afterwards.” Ingram confessed how he might have abused his daughters even though he had no memory of having actually done so. He attempted to recant his confession, but as we know by now, no one was buying it. He was sentenced to twenty years in prison. He was paroled in 2003 after serving the majority of his sentence.
Happy Endings

The cases cited above represent only a few of the dozens that appear in the literature. Many are well known by nearly everyone because of intense media coverage, such as the Ramsey, Knox, and Central Park Jogger cases. Others, such as the case involving Chris Ochoa, may have been known only in the local area where it occurred. Many may have briefly caught the public’s attention as a result of being featured on a network program, such as 48 Hours or 20/20. Most though, are not well publicized and never see the light of day until an exoneration and release from jail or prison occurs. Usually then, it is only a one or two day news story, then fades away.

All of the cases cited so far have had relatively happy endings, meaning the person was eventually released from prison, or like Michael Crowe, never convicted, but still had to endure such a harrowing experience at a very young age. What about those cases that did not have such happy endings? For instance, has anyone ever been executed and later found to have given a false confession? Are there still people who gave false confessions still sitting in prison waiting for a miracle to occur that might one day set them free?

Robert Perske chronicles the story of Joe Arridy, who most likely false confessed to a murder, then was later executed. In Pueblo, Colorado, Dorothy Drain, 15, was raped and murdered and her sister, Barbara, bludgeoned, but survived. Barbara identified Frank Aguilar, who had recently been fired by her father, as the attacker and he was charged and later tried and convicted. Arridy, a mentally retarded man, was arrested in Wyoming for vagrancy, but questioned regarding the Pueblo murder. The sheriff, feeding Arridy with details of the crime,
elicited a confession. According to the sheriff, Arridy said he “did it with Frank.” The sheriff immediately called the press revealing the confession, despite the fact that the Pueblo police had an eyewitness suspect. Nevertheless, Arridy was taken back to Pueblo to stand trial. Based on the confession, he was found guilty and sentenced to death. In a separate trial, Aguilar was also found guilty and sentenced to death. Both men, who never knew each other, were executed by the State of Colorado. Arridy was posthumously pardoned by then governor Bill Ritter after the publication of Perske’s book and the subsequent public uproar.22

On July 13, 1980, three young men died in a bowling alley shooting in Houston. A few weeks later, the police stopped Max Soffar for speeding and arrested him for driving a stolen motorcycle. On the way to the police station, Soffar told the officers he had information about the bowling alley murders. That set off a chain of events that eventually landed him in the Polunsky Unit, death row, where he currently resides. After three days of intense interrogation, Soffar gave a sleep-deprived, coming down from drug use, video-taped confession which was used at trial to convict him. He is currently appealing the conviction.23

One pattern that emerges from the above cases is that they all involve males. For some reason or another, a literature search does not produce many female false confessors. No doubt, there is a reason for this. The explanation for the gender difference is likely to reflect the greater involvement of males than females in delinquency and criminal acts and get targeted more frequently. Nevertheless, there is the strange case of Karlyn Eklof.

On March 21, 1993, James Salmu was reported missing after a pizza party at his house in Springfield, Oregon. His housemate, Karlyn Eklof, was eventually questioned. After eight to ten hours of daily interrogation for nine days, Eklof recited on videotape a police-invented scenario
in which she stabbed Salmu with a plastic knife. Eklof was prosecuted for Salmu's murder based on this confession, despite the fact Salmu’s body was still missing. At trial, testimony was presented indicating that Salmu had been stabbed. The prosecution then presented Eklof’s confession, which appeared to agree with the cause of death, even though there was not a body. Following Eklof’s conviction, Salmu’s body was found, shot, and not stabbed. Eklof is currently serving a life sentence.24

Rationale Choice Theory

Of the three types documented in the literature, compliant and internalized false confessions are by far the most common and troubling. Offering an explanation for this, Leo and Ofshe developed the “rationale choice theory” which presumes that some suspects falsely confess because interrogation convinces them that confessing is the most rational choice.25 This occurs when an innocent suspect believes that the police have strong evidence and that confessing is the only way to avoid severe punishment. It can also occur when an innocent suspect, wanting to end a stressful interrogation, believes that it will be impossible to shake the interrogator’s belief in guilt, but proof of innocence will emerge later, such as what happened in the Pizza Hut case.

Interrogation Techniques

In television and movies, we have all seen the “good cop, bad cop” hammering away at a suspect. In real life though, a more commonly used and confrontational technique is what is
commonly referred to as the Reid. Kassin describes the procedure and why it results in so many false confessions.\textsuperscript{26}

The Reid is a two-stage process begins with a non-accusatory interview, followed by an accusatory interrogation. During the non-accusatory session, the interviewer generally asks open-ended questions and evaluates the suspect’s truthfulness focusing on things such as lack of eye contact, shifting posture, and fidgeting to determine deceptive behavior. If guilt is suspected, the interviewer then conducts an accusatory interrogation, with the intent of getting the suspect to incriminate themselves. An accusatory interrogation typically begins with a process designed to break down the suspect making the situation seem hopeless by suggesting that conviction is inevitable. The interrogator repeatedly states the absolute certainty of the suspect’s guilt, cutting off all denials of guilt, and confronts the suspect with evidence, whether real or fabricated. After a while, the strategy changes to convince the suspect that, given the irrefutable evidence, confessing is the best option available. These strategies may consist of either minimizing the seriousness of the offense or convincing the suspect that confessing will minimize the consequences.

There is no doubt that the Reid, and other interrogation techniques, has been successful in gaining confessions from thousands of legitimate criminals. On the other hand, we now know, some people will admit guilt to escape this aversive, interrogation process which may eventually lead to a wrongful conviction.

\textit{Noble Cause Corruption}
As we have seen, interrogation techniques, such as the Reid, sometimes contribute to or result in a false confession. This is especially true when interrogators cross the line and violate the rights of a suspected criminal offender. This can take many forms, especially when police are under intense pressure to solve a crime. They conclude that a suspect must be guilty and focus on obtaining a confession, such as what happen in the Central Park Jogger case.

“I am entirely justified in my means because my end was noble” is a quote found in Delattre’s book on policing ethics which illustrates one aspect of the problem. Everyone is aware of instances of police corruption, the “bad apples” if you will. When one is in a position of authority there are many temptations to which some succumb.

When thinking of police corruption, it usually involves personal benefit and gain, such as accumulation of wealth or sexual favors. Delattre’s quote puts the onus on another type of corruption, one just as serious. One, that does not involve gain or favors. This is corruption when officers do bad things because they believe that the outcomes will be good. They sometimes cross an ethical line when making an arrest or gaining a confession. Convinced they have the perpetrator, they may lie; plant, hide, or manufacture evidence; threaten the person with a ridiculous prison sentence; or a host of other issues we see played out in many false confession cases.

Noble cause is an area of corruption that is not entirely clear to the lay public. It is mostly an “in house” police issue, one that has become a part of the subculture. Crank and Caldero sum the problem up in a couple of sentences when they describe it as “corruption committed in the name of good...corruption that happens when police officers care too much about their work...corruption committed in order to get the bad guys off the streets.”
The Prosecutor’s Office

Given the fact that false confessors, once convicted, have the system stacked against them, the best scenario in preventing them would be to stop the process before it ever gets to the courtroom and a jury. This might happen if prosecutors paid better attention to suspicious confessions and rejected some questionable interrogation tactics which lead to many of these confessions. This begs the question; would a prosecutor recognize a false confession obtained from police interrogation if he or she was confronted with one? If so, would anything change?

Just as police are under pressure to obtain a confession to close a case and move on the next, prosecutors earn their spurs with convictions. Wins and losses define a prosecutor’s career. To the prosecutor once at trial, its “guilty until proven innocent.” In the zeal for convictions, Grometstein argues that prosecutors suffer from the noble cause as well. Like police, prosecutors sometimes violate rules not for graft, but to get the bad guys off the street. According to Grometstein, occasionally evading ABA’s Model Rules of Professional Conduct is a small price to pay to accomplish this goal.29

With the number of embarrassing, high profile exonerations surfacing in the media, many states are attempting to strengthen laws which will minimize prosecutorial misconduct. Texas passed the Michael Morton Act which stemmed from the aftermath of a case in which a man, Morton, was wrongfully convicted of murdering his wife in 1987 as a result of blatant prosecutorial misconduct. Morton served more than twenty-four years in prison before being exonerated on DNA evidence that the prosecutor’s office fought years to produce. Although, this is not a false confession case, it illustrates what can happen when a rogue prosecutor is
injected into the system. A fascinating and detailed account of Morton’s case is found in a two-part article written by Pamela Colloff in *Texas Monthly*.\(^{30}\)

In a false confession case involving prosecutorial misconduct, in 1987, Robert Lee Miller, Jr. suggested to the police that he had some kind of psychic link to a murderer who had raped and killed a number of elderly women in Oklahoma City. In twelve hours of interrogation, Miller attempted to answer questions as if he were clairvoyant and could see how the crime took place through the killer’s eyes. He believed he was helping police solve the crime by telling them pertinent details. Police eventually led him to what the state called an admission of guilt, despite multiple instances in which Miller adamantly denied involvement in the crimes. Miller was convicted of the murders and sentenced to death. In 1991 and 1993, DNA tests proved that Miller could not have been the rapist. Despite this and the fact that another man had been arrested and convicted for the murders, Miller was not freed until 1998. The reasons for the delay was prosecutorial heal dragging, filing one appeal after another to keep Miller incarcerated.\(^{31}\)

Sadly, whether it is a case of not recognizing a false confession or knowingly hiding evidence, the fact remains that prosecutors’ jobs are dependent on having a high conviction rate. In reality, their jobs should be to keep the public safe by putting away the guilty and letting the innocent go free. The consequences of convicting the innocent is that the guilty walk away and are free to potentially commit more crimes as happened in the Wilson and Yarbough case.

*The Jury*
It is jurors who must evaluate the credibility of disputed confessions when making verdict decisions. Anyone who has ever served on a jury knows that each arrive at the courthouse with beliefs, preconceptions, expectations, and biases. These beliefs shape how they process and interpret evidence presented by the two sides at trial. Not a lot is known about how juries view false confessions, especially when a defendant claims at trial that the confession was coerced. A study by Costanzo did reveal that about half the jurors in his sample believed that if someone falsely confessed to a crime, they could be convicted, even if there was no other evidence against them.\textsuperscript{32} Unfortunately, this is a much lower percentage than what actually happens. The previously mentioned Leo and Drizin study showed that when suspects falsely confessed and then pled “not guilty” and proceeded to trial, the conviction rate was 81 percent.\textsuperscript{33}

\textbf{The Confession}

From what we now know, a confession offered at trial is very compelling and persuasive evidence of a defendant’s guilt. Prosecutors avidly seek confessions as the most persuasive evidence to win cases. It is the gold standard. Confessing to someone else’s crime is clearly one of the most counterintuitive aspects of human behavior. One would think it almost never happens, but as we have seen, it happens with great regularity.

There is a misconception in the criminal justice system that anyone would recognize a false confession. Surely, it would sound different or look different. Not so. Kassin did a study of male inmates in a Massachusetts state correctional facility who were recruited and paid to take
part in a pair of videotaped interviews. He asked each to confess to the crime(s) they had committed. They were then asked to confess to crime they did not commit. Kassin showed these videos to seasoned detectives, prosecutors, judges, and lay people. Invariably, they could not tell the difference between the true and false confession.\textsuperscript{34} Results of this study show that it is virtually impossible to discern a false confession by looking or listening to it, despite what one might otherwise think.

Once the confession is given, interrogators, prosecutors, judges, and juries see other evidence around that confession differently. It matters little that there might be contradicting or exculpatory evidence available. In other words, a confession has the power to corrupt other evidence; and has a compelling influence on jurors who they are more likely to convict on the basis of a confession than anything else, including eyewitness identification, alibis, forensic evidence, even DNA, as was illustrated in the Leo and Drizin study.

**False Confessions in the Lab**

One obviously cannot perform a lab experiment on false confessions in the police station, but it can be been done in academia. Some researchers have managed to set up laboratory experiments that attempt to mimic some of the conditions involved in an interrogation. The question: will someone confess to something they did not do without the pressures that can be brought to bear in a police station in an interrogation situation? Surprisingly, Perillo and Kassin found that it is easy to produce in a lab situation.\textsuperscript{35}

The researchers used a group of 71 university students who were told they were taking part in a test of their reaction times. Participants were asked to press keys on a keyboard as
they were read aloud by another person, who was secretly part of the ruse. The volunteers were informed that the ALT key was faulty, and that if it was pressed the computer would crash and all the experimental data would be lost. The experimenter watched the proceedings from across the table. The computer was actually set up to crash about a minute into the test. When this happened the experimenter asked each participant if they had pressed the illicit key, acted as if he was upset when it was “discovered” that the data had disappeared, and requested that the participant sign a confession. Only one person in the sample actually hit the ALT key by mistake, but a quarter of the innocent participants were so disarmed by the shock of the accusation that they confessed to something they had not done.

In a second experiment, Perillo and Kassin put another person in the room with the examiner. This person was playing the role of a witness or snitch, and would say he saw the students hitting the ALT key. In this case the confession rate jumped to 80 percent of innocent participants.

In another twist of the experiment, the researchers tested the impact of bluffing, a common police interrogation tactic. Two participants sat in the same room and were asked to complete what appeared to be an academic test. Halfway through, the investigator accused them of helping each other, or cheating. The investigator went on to bluff that there was a video camera in the room. Presumably, the innocent participants knew such a tape would eventually show they did not cheat. Even so, half still confessed.

Why did so many students confess? Kassin offers the suggestion that participants may simply be naïve and that their innocence will emerge in the end, particularly in the case of the alleged video evidence. One participant, for example, told him, “it made it easier (to sign the
confession) because I had nothing to hide...the cameras would prove it.” Kassin added, “The results suggest that the phenomenology of innocence can lead innocents to confess even in response to relatively benign interrogation tactics.”

Discussion

Studying the prevalence of what is and is not a false confessor obviously presents a multitude of problems in quantification. As we have seen, a person who false confesses usually recants the confession at some point, but in more cases than not, is convicted anyway. To disprove, or exonerate a false confessor, regardless of whether it fits in one of the three categories, one must first determine actual innocence. Something has to happen. The most obvious being, the real perpetrator admits to the crime either before or after the false confessor’s conviction.

A second situation would be where DNA evidence proves the false confessor could not have possibly committed the crime. Through research on the phenomenon, Kassin estimates that 20 to 25% of all DNA exonerations involve innocent people who gave a false confession. Unfortunately, as seen in the Michael Morton case, getting DNA tested after the fact can be a very slow process, sometimes taking years.

Similar to DNA disproving a confession would be a situation where it could be objectively established at some point that it would have been physically impossible for the confessor to have committed the crime. This, plus DNA, is what eventually eliminated John Kerr as a suspect, luckily, before a trial and conviction.
Another problem is how an innocent person even gets the opportunity to prove that the confession was false after the fact. Once confessed, the genie is out of the bottle. Even if evidence strongly suggests that the person might be innocent, it is hard to remove all possible doubt about the confession. Some fortuitous event has to happen, such as someone walking in off the street admitting to the crime and providing inconclusive details to support that claim. Or, as in the Yarbough and Wilson case, the perpetrator killed several years later and left matching DNA which eventually raised a red flag on the boy’s earlier convictions. The most likely scenario would be that some organization, such as the Innocence Project, pursue the case and successfully disproves the false confession.

One thing though is certain, when evidence of a false confession comes to light; the integrity of the justice system is implicated. Presented in this paper were real-life cases, all determined to be false confessions, and the cases that went to trial, defendants were found to be guilty. Many were the product of a coercive police interrogation, not supported by any other evidence. Researchers we have come to know, Kassin, Gudjonsson, Leo, and Drizin, have called for policy changes which are believed would reduce the risk of false confessions. Many have argued that interrogation practices need to be changed.

Most scholars agree that eliminating lying (which is perfectly legal) in an interrogation would minimize the chance of mistakes. As we have seen, interrogations can last for hours, sometimes days. Interrogators can say they have the person’s fingerprints on the murder weapon, hair samples on the victim, a failed polygraph, positive identification by witnesses, and a host of other deceptive tactics. The suspect, confused and/or disoriented, begins to question his or her innocence. Questions may turn to memory and consciousness. Eventually, the
suspect might infer that they could have committed the crime. As we have seen in many of the cases reviewed, untrue statements regarding the presence of incriminating evidence or a person’s mental state played a part in the false confession.

Another policy change frequently mentioned is requiring mandatory electronic recording of interrogations, preferably a video record focused on both the suspect and interrogator. This is simply the only way to create an objective record of what transpired during the course of the interrogation process. This would allow prosecutors and judges to review questionable confessions before going forward. If at trial, rules might prevent a jury from viewing a video, but at the very least, they could be provided with audio or transcripts generated from a videotape.

In many of the cases reviewed, a confession was the only thing presented at trial. Logic would tell us there needs to be something else, such as a confession corroborated by independent evidence of some type. In the large number of exoneration cases, only a fraction presented in this paper, provide irrefutable proof that false confessions resulting in wrongful convictions are not isolated or rare events. They arise from systemic defects in the criminal justice system that have been clearly identified, and someday need to be addressed.
Endnotes


5Ibid.


8Ibid.

9Conti, “The Psychology of False Confessions.”


36 Ibid.

37 Saul M. Kassin, “False Confessions: Causes, Consequences, and Implications for Reform.”