

## IS IT FOR REAL?? Evaluating the Confession

Office of the Wisconsin State  
Public Defender

2001 Annual Criminal  
Defense Conference

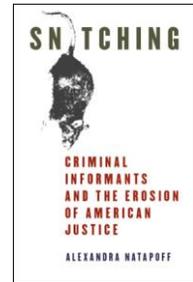
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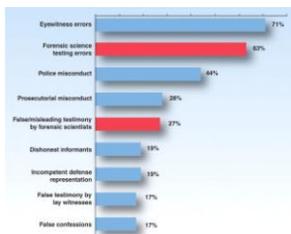
## Mechanics, Dynamics & Mindset Behind False Confession Can Also:

- Influence eyewitness identifications
- Lead to false testimony by lay witnesses
- Facilitate lying by snitches and jailhouse informants.



## 25% Exonerations Involve False Confessions

- Incriminating Statements
- Outright Confessions
- False Guilty Pleas



A confession is a powerful  
weapon of the prosecution.  
People will believe a confession  
in spite of overwhelming  
contrary evidence.

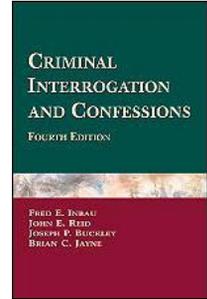
## Videotaping

- Does not eliminate the problem of false confessions.
- Critical in the identification of them.



## John E. Reid Institute

- "The Reid Technique"
- Law enforcement standard
- Developed to counter the use of the "3<sup>rd</sup> Degree" through use of "psychology".



## Obtaining False Confessions – the "Three Step" Program

**STEP #1:**  
*Interrogate  
 an  
 Innocent Person*



## Who Is In "The Box" ? (And How Did They Get There?)

### WHO?

- Juveniles
- Mentally ill/disturbed
- "Under the influence"
- Sleep deprived

### HOW?

- Rumors
- Neighborhood suspicions
- Local "weird guy"
- Hunches
- Snitches

## “Round Up The Usual Suspects”

- Investigation by polygraph.
- “Lets sweat them” – trial by fire.
- “Behavioral Analysis Interview”



## Behavior Patterns Indicating Guilt

From Homicide – Life On The Streets

- |                                     |                      |
|-------------------------------------|----------------------|
| • Uncooperative                     | • Too cooperative    |
| • Talks too much                    | • Talks too little   |
| • Gets his story perfectly straight | • F***s his story up |
| • Blinks too much                   | • Doesn't blink      |
| • Avoids eye contact                | • Stares             |

## Keeping An Open Mind

- Circumstantial evidence that may have another explanation or not be relevant.
- Misinterpretation of evidence.
- Eyewitness identification issues.



## Goal of the Interrogation

- “...to determine the truth.”
- Human nature – the “truth” is what we have determined it to be – based on our theory of the case and interpretation of the evidence.
- We tend to seek a confession to what we “know” to be the truth.

## Obtaining False Confessions – the “Three Step” Program

STEP #2:  
Use Coercive  
Interrogation  
Tactics



Dickerson v U.S.  
acknowledges that  
interrogations are  
inherently coercive.



JACK BAUER INTERROGATION TECHNIQUE

When asking politely just isn't enough.

fakeposters.com

## Interrogation Tactics

### Allowed

- Confrontation \*
- Blocking denials \*
- Maximization \*
- Minimization \*
- Theme Development \*
- Alternative Questions \*
- Lying about evidence
- Changing interrogators
- Polygraph/Voice Stress Tests \*
- Isolation \*

### Not Allowed

- Threats
- Promises of leniency
- False legal advice
- Depriving of basic human needs.

\* Allowed by Reid

## The “Big” Ones

- Threats
- Promises
- Misrepresentation of the evidence.
- Suppressed memory or “black out” theme.
- Lengthy interrogation
- Multiple interrogators.



## A Confession Occurs When:

- The suspect reaches a state where they believe that the short term benefits of confessing outweigh the long term consequences.



## Obtaining False Confessions – the “Three Step” Program

### STEP #3:

### *Contamination*

“They gave details that only the killer would know”



## Contamination

- Building on outside contamination
- Question structure
- Suggestive response to answers.
- Multiple repetition of question
- Failure to recognize “cold reading” techniques.
- Showing evidence/crime scene photos
- Theme development

### Voice of American Murder Interrogation and Confession A Case Study



**Lawrence**

- 35 year old civil engineer
- Government employee
- Friday, February 25, 1994
- Leaves work at 4:05 pm
- Late picking up his son at day care in Virginia



### Proof of Innocence

- Alibi discovered
- Forensic evidence discounted



## Film clips

## Evidence of Contamination Qualifying Answers

- "I may have...."
- "I think I...."
- "I probably..."
- "In my mind...."

What did you do with [redacted] clothing?

Ans:  
I may have ~~stuck~~ stuck them in the  
little bin room on the top of the garage basement  
wall where their bike is little dark space. I'm  
not sure.

[redacted]  
What did you remove them from there?

13

Ans:  
I don't think I ever did. I'm not really sure.

## Evidence of Contamination Corrections By The Interrogator

- Q: "Didn't you tell me earlier that....."
- Q: "That doesn't make since because....."

We all make mistakes  
We all make mistakes  
We all make mistakes  
We all make mistakes  
We all make mistakes

## Evidence of Contamination Detective Leading the Confession

- Q: "And then you went through the door, right?"
- A: "Yes"
- Q: "And the victim was on the couch, wasn't she?"
- A: "I guess so".
- Q: "And that is when you grabbed the knife and stabbed her?"
- A: "Yeah."

## Obtaining False Confessions The "Nail in the Coffin"

Failure to corroborate the confession



## Gold Standard

- Does the suspect provide information that is not known to persons outside of the investigation?
- Can this information be shown to be free from contamination.
- Does the suspect provide information that was unknown to anyone (including the investigators) that can be corroborated?

## Dismemberment "Confession"

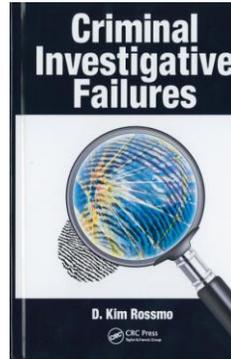
- Suspect: Used a Ginsu serrated knife to cut tissue....and a hammer/chisel to break bone.
- Forensic findings: thin blade knife/fine tooth saw.
- Detective's report: **"Gave details only the killer would know"**

STATEMENT	CORROBORATION	CONTRADICTION
Victim had earlier charged Turner out of dismay— "That of spite, soon after her death, he hit her right nipple"	None	No bite marks found during the autopsy or on the photographs of the body.
Turner didn't know who to do with the victim. He had already dumped another body in a nearby location, and didn't want to be responsible for his placements.	Emily Bennett was found on August 9, 1997 at 70th Princeton PI, NJ - two months prior to the victim's murder.	Turner had no issues with disposing the body of Jacqueline Birch inside of 70th Princeton PI NJ just over a month after the victim's murder.
He put a bag over her head and kept her in his bedroom for a day.	None	No hairity was noted in the body at the time of the autopsy, which would have been present if this had occurred. The lack of blood, especially around the wound edges, suggested that the body had been drained of blood soon after death and before dismemberment.
He used a "Ginsu" style knife with a serrated blade to cut through her tissue and muscle. He used a hammer and chisel to get through the bone.	None	The forensic Anthropologist report says that the tool used was a "thin bladed knife" and a "fine tooth saw"

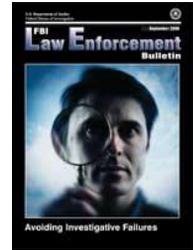
DETECTIVE	DEFENDANT	INTERROGATION TECHNIQUE/POINT	PAGE	COMMENTS	TYPE OF QUESTION
At right, lets back up a little bit [goes over sequence again putting Mills and Melvin on the couch and chair] - You had already touched his penis and pulled his pants down you said then?	Yes	contamination	54	DeCoster structuring story	Leading - closed confirmatory
So what, did you go to him at the chair or did he come to you, or something else	He came to me	contamination	54		Leading
Did you call him over?	yes	contamination	54-55		Leading - closed confirmatory
Do you remember what kind of pants they were? Were they PJ pants or--	PJ pants	leading contamination	55	Sample of non-leading: What was Melvin wearing?	Leading
Did he have underwear on?	Yes	contamination	55		Leading - closed confirmatory
[referring to how Mills could become erect though he had just ejaculated while watching porn] - You are still all horned up I guess, huh?	Yes		57	explaining away questions.	closed confirmatory

## Additional Red Flags

- Type of case (emotionally charged – high profile).
- Reputation/experience of the interrogator.
- Lack of documentation of the interrogation, confession or follow-up.
- Lack of certain details in the confession.



*Criminal Investigative Failures  
Avoiding the Pitfalls*  
By D. KIM ROSSMO, PhD  
Sept and Oct 2006 Editions



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