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This article addresses interrogation by police and by military and intelligence agencies.

Police Interrogation

In criminal cases, three types of confessions have been distinguished from each other (DeClue, 2005). *Self-initiated* confessions occur when a person initiates contact with a law enforcement officer or other person in authority and declares that he or she is guilty of a crime. *First-response* confessions occur when the police approach a person and initiate questioning, and the person's first response is "I did it." *Police-induced* confessions occur when the police approach a person and initiate questioning, the person's first response is something other than "I did it" (e.g., "I didn't do it"), the police engage in further conversation with the person, and the person subsequently says, "I did it." The further conversation between police and suspect is police interrogation.

Although the proper goal of police interrogation, like any police investigation, is to determine the truth, accusatory interrogation proceeds systematically with one goal: to obtain a confession from whomever has been selected as a suspect. Police are legally permitted to lie and otherwise deceive a suspect as they encourage the suspect to believe that the evidence of guilt is overwhelming and resistance is futile, that there is nothing to lose by confessing, and that there is something to gain by confessing.

The same process that induces guilty suspects to confess induces some innocent people to give false confessions (Gudjonsson, 2003). The Innocence Project (<http://www.innocenceproject.org/understand/False-Confessions.php>) reports that among people who have been exonerated by DNA evidence, more than 25% had falsely confessed. In most criminal cases there is no biological evidence suitable for DNA testing, so if we want to prevent future wrongful convictions we need to study known cases of false confessions and learn what went wrong.

The first step is to keep in mind that a confession in response to police pressure is not the same as a confession offered spontaneously. In *Hopt v. Territory of Utah*, 110 U.S. 574, 584-585 (1884), the U.S. Supreme Court held "A confession, if freely and voluntarily made, is evidence of the most satisfactory character. Such a confession is deserving of the highest credit, because it is presumed to flow from the strongest sense of guilt, and therefore it is admitted as proof of the crime to which it refers. . . . But the presumption upon which weight is given to such evidence, namely, that one who is innocent will not imperil his safety or prejudice his interests by an untrue statement, ceases when the confession appears to have been made [in response to] inducements, threats, or promises."

Hindsight analysis of known cases of false confessions, such as those in the Central Park jogger case, reveal that neither *Miranda* warnings nor a voluntariness test work to keep false confessions out of courtrooms. But there is a solution: “The legacy of the Central Park jogger case is that by extracting five demonstrably false confessions from five innocent young boys, police and prosecutors allowed a violent serial predator to continue robbing, raping, stabbing and, in one case, killing other women before he was finally apprehended and brought to justice. The pretrial reliability test that we propose ... will prevent judges from admitting false confessions into evidence, thus preventing juries from wrongfully convicting the innocent (Leo, Drizin, Neufeld, Hall, & Vatner, 2006, pp. 537-538).

What is that reliability test? The entire interrogation and confession should be electronically recorded and judges should weigh three factors in deciding whether or not to admit confession evidence at trial: “1) whether the confession contains nonpublic information that can be independently verified, would only be known by the true perpetrator or an accomplice, and cannot likely be guessed by chance; 2) whether the suspect’s confession led the police to new evidence about the crime; and 3) whether the suspect’s post-admission narrative ‘fits’ (or fails to fit) with the crime facts and existing objective evidence (Leo et al., 2006, p. 530).”

Interrogations by Military and Intelligence Agencies

In police interrogations, discussed above, the goal is typically to discover truth about a crime that has been committed. In contrast, the goal of interrogations by military and intelligence agencies is often to gain information that could help to prevent acts of war or terrorism, or that could help to win a battle. Military and intelligence agencies are not governed by the same rules as domestic police forces, and some people have advocated the use of physical and/or psychological torture to get prisoners to divulge information in spite of international agreements regarding human rights (for example, see http://www.unhchr.ch/html/menu3/b/h_cat39.htm), and in spite of the fact that publicly available evidence does not show that torture or “harsh interrogation” is more effective than non-stressful interrogation techniques (McCoy, 2006).

The federal government of the United States suffered a breakdown of civilization following the terrorist acts of September 11, 2001, and government agents employed interrogation techniques that had been outlawed for decades. Recently, the U.S. Army Field Manual (<http://www.army.mil/institution/armypublicaffairs/pdf/fm2-22-3.pdf>) has been revised to clearly exclude torture. At the time of this writing, the U.S. Congress has passed legislation including, “No individual in the custody or under the effective control of an element of the intelligence community or instrumentality thereof, regardless of nationality or physical location, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.” That legislation was vetoed by President George W. Bush, and further action is needed to bring the United States back into the civilized world.¹

¹ Editor’s Note: As one of his first acts on assuming office, President Barack Obama upheld the commitment of the United States to the Geneva Convention.

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- McCoy, A. W. (2006). *A question of torture: CIA interrogation from the cold war to the war on terror*. New York: Metropolitan Books.

Suggested Readings

- DeClue, G. (2005). *Interrogations and disputed confessions: A manual for forensic psychological practice*. Sarasota, FL: Professional Resource Press.
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