

The 3 Steps to a False Confession

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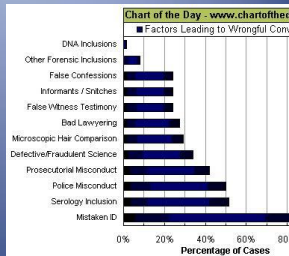


A confession is false when...

- A person admits to something that they did not do.
- A person's statement either criminalizes or increases the criminal culpability of their actions.

Scope of the Problem

- 20-25% of DNA Exonerations
- Iceland Self Reporting studies: 12-17%
- Survey of police officers: believe 5% of confessions are false
- Reality – no known base rate exists.



Same mechanics and dynamics behind false confessions are also found in:

- False testimony by lay witnesses/victims
- Lying informants.



Obtaining False Confessions – the “Three Step” Program

STEP #1:
*Interrogate
an
Innocent Person*



Identification of the Innocent



HOW?

- Rumors
- Neighborhood suspicions
- Local “weird guy”
- Hunches
- Snitch/Informant Information

Who Is In "The Box" ?

- Juveniles
- Suggestible
- Mentally ill/disturbed
- "Under the influence"
- Sleep deprived
- Trust of authority



Keeping An Open Mind

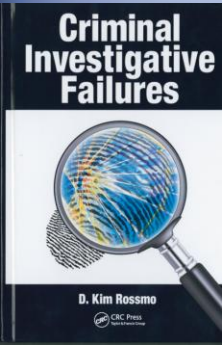
- Circumstantial evidence that may have another explanation or not be relevant.
- Misinterpretation of evidence.
- Eyewitness identification issues.



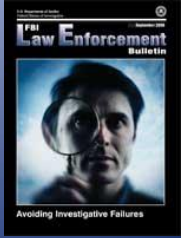
Behavioral Analysis Interview BAI

- "A non-accusatory interview in which a structured set of questions are asked, some of which are for the purpose of eliciting verbal and nonverbal behavioral symptoms indicative of truth or deception."





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




Behavior Patterns Indicating Guilt


From Homicide – Life On The Streets

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

Obtaining False Confessions – the “Three Step” Program

STEP #2:
Use Coercive Interrogation Tactics





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

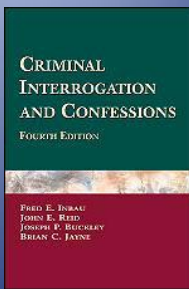
U. S. Law Enforcement Approaches
to Interrogation



JACK BAUER INTERROGATION TECHNIQUE
When asking politely just isn't enough.

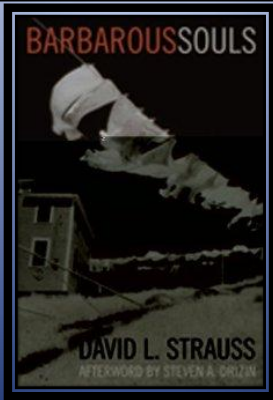
John E. Reid Institute

- “The Reid Technique”
- Law enforcement standard
- Developed to counter the use of the “3rd Degree” through use of “psychology”.
- www.reid.com



Reid Technique

- “Interrogation is an art whereby through the use of persuasion and observation the truth is elicited from a suspect by sound reasoning and understanding without the use of threats or promises.”
- The proper use of the Reid Technique will never result in a false confession.



The Reid 9 Step Program to “The Truth”

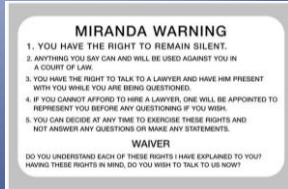
**“What’s
Interrogation
Gotta Do With
It?”**

Deja Vishny
Wisconsin Public
Defenders Service



According to Reid

- Purpose of an interrogation is to uncover the truth.
- Reid tactics are not coercive.



Reid – Where Things Can Go Wrong

- Improper use of The Reid Technique
- Juvenile suspects
- The suspect suffers from some mental or psychological impairment
- The interrogation took place over an inordinate amount of time
- The interrogators engaged in improper/illegal tactics and techniques.

Interrogation Tactics

Allowed

- 9 Steps
 - Confrontation
 - Theme Development
 - Blocking Denials
 - Overcoming Objections
 - Maintaining Suspect's Attention
 - Handling Suspect's Passive Mood
 - Obtaining Details
 - Documenting the Confession
- Also Allowed
 - False Evidence Plays
 - Isolation

Not Allowed

- Threats
 - Physical harm
 - Inevitable consequences
- Promises of a benefit
 - Legal benefit – leniency
- False legal advice
 - “Only chance to tell the truth”
- Some false evidence plays
 - Creation of false lab reports
- Depriving of basic human needs.

A Confession Occurs When:

- The suspect reaches a state where they believe that the short term benefits of confessing outweigh the long term consequences.
- The suspect wants to escape real or perceived inevitable consequences or obtain a real or perceived benefit.



Obtaining False Confessions – the “Three Step” Program

STEP #3: Contamination

“They gave details that only the killer would know”



The Substance of False Confessions

Brandon L. Garrett

Vol. 62 Stanford Law Review pg. 1051 (2010)

- 40 false confession cases uncovered by DNA testing
 - In 97% of those cases, the innocent suspect provided “specific details concerning how the crime occurred...” often including “inside information” only the true suspect could have known.

Contamination Sources

- Building on outside contamination
- Question structure
- Suggestive response to answers.
- Multiple repetition of question
- Failure to recognize “cold reading” techniques (e.g.: guessing)
- Revealing evidence/crime scene photos
- Theme development
- Out and out telling the suspect

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 (“hold back” information)?
- 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?

Law Enforcement Training



- False confession often not addressed or downplayed
- Reid offers material in its written text and on its website
 - But little mentioned in class.
 - Inconsistent and contradictory

Reform

- Mandatory recording of the entire interrogation – at all times.
- Application of the scientific method.
- Training
- Learning from others
- Judicial evaluation of confession evidence
- Autopsy of failed investigations.

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