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The Ethics of Interrogation:

How Unethical Interrogations Lead to False Confessions and What It Means for the Criminal

Justice System

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Abstract

Forensic interrogation is a vital step in the process of criminal investigations in order to extract information about suspects and the crime at hand. However, tunnel vision, artificial time constraints, lack of thorough training, and noble-cause corruption can influence how an investigator decides to interrogate a suspect or witness. When these influences are exerted on an investigator, the need to secure an arrest and conviction overpowers the need for justice - this results in false confessions and wrongful convictions. This is otherwise known as “the end doesn't justify the means” mindset. This causes investigators to engage in unethical interrogations, whether intentional or not. The ethics of interrogation have long been regarded as a gray area of criminal justice, however, with the rise in public awareness towards false confessions this gray area can no longer be ignored. In this research project, we will explore just what the kinship between the ethics of interrogation and false confessions means for the US criminal justice system, and what can be done to solve this problem.

Keywords: interrogation, wrongful conviction, false confession, tunnel vision, artificial time constraints, noble-cause corruption

Forensic interrogation is the step that allows investigators to secure a suspects' motives, scene of events, and other vital information to solving a crime. In the United States, this is the step in an investigation when an officer's main goal is to get a guilty suspect to confess to a crime they believe was committed by them. This is arguably one of the most important steps in the criminal investigation process, so it is clear why investigators feel enormous pressure to secure this information at the completion of an interrogation. However, the importance of obtaining this information in a legal and ethical manner is twofold; this is to ensure the appropriate person is being held accountable for the crime. The ethics of interrogation is a large gray area as is most topics of ethicality, however, it needs to be placed under the microscope in order to prevent false information from arising out of these interrogations. Experts (Godsey, 2017; Trainum, 2016) agree this false information can emerge when intimidation, fear tactics, false evidence, and other forms of coercion are used, and are often the result of the training investigators receive on this aspect of policing. In order to be considered an ethical interrogator, one must balance the interests and rights of the suspect, as well as pursue other possible theories of crime and disregard the pressure that is presently applied from the public or department involved. The ethicality of forensic interrogation can largely fall into this gray area of ambiguity, however, it is imperative that the criminal justice system critiques and addresses it as often as possible in order to prevent wrongful convictions based on unethical interrogations. Due to the common occurrences of false confessions today, it is vital to explore just what causes a law enforcement official to engage in unethical interrogative practices and what the consequences are for the criminal justice system.

Of utmost importance in the discussion of interrogations is the credentials an investigator holds in order to establish themselves as a learned professional in interviewing and interrogation techniques. One would assume investigators are highly trained in interrogations, as it is such a vital aspect of their job description. However, it is alarming the amount of specialized training they actually receive, if any. When law enforcement officers are promoted to investigative roles within their department, they are often provided with on-the-job training in relation to the interviewing and interrogation of victims, witnesses, and suspects (Trainum, 2016, p. 121). Oftentimes, those officers who are promoted to these investigative positions do not get professional, specialized training in interviewing and interrogation techniques. Sometimes, officers do attend Reid Training, which is regarded as the most extensive professional interviewing and interrogation training in the United States (Trainum, 2016, p. 83). Reid Training is about a week-long course that teaches techniques to get a suspect to confess to a crime the officer believes they committed, thus achieving the main goal of an interrogation.

There are quite a few problems with the Reid Training program, especially when applied to law enforcement officials. One of these problems is that the training is of an adversarial nature, so that in the interrogation room an investigator can intimidate a suspect into believing the investigator knows they are definitely the perpetrator of the crime. Quite literally one of the Reid Techniques instructs investigators to leave the room after introducing themselves to raise the anxiety of the suspect, and then reenter with a large file that may or may not serve any relevance to the case at hand; the file is used as a prop to emphasize to the suspect the amount of work the investigator has devoted (Trainum, 2016, p. 24). Additionally, the Reid Training does not discuss the massive problem of false confessions and does not even consider that their

training may contribute to a false confession. In fact, the Reid Interrogation School conducted a study that determined using their techniques will help an investigator correctly identify a guilty suspect and determine when they're being deceptive 100% of the time (Trainum, 2016, p. 72). This is a very odd calculation, as almost every study conducted revolving around these same interrogation techniques have determined that an officer's ability to act as a lie detector is only slightly better than flipping a coin. The Reid Training School ignores the problem of false confessions because they boast that only guilty suspects will fall under the pressure these techniques exert and it is impossible for an innocent suspect to falsely confess. The common occurrence of exonerations clearly shows that some people do, in fact, falsely confess. As we will see, there are no distinctive differences between how an innocent versus a guilty suspect reacts when they are being interrogated for a crime, especially when they are being unethically treated and placed under enormous pressure while being interrogated. How are law enforcement officials, who may have little to no experience and training, expected to determine who is guilty and who is innocent? And, if they cannot do so, how does it somehow not contribute to the ever-growing problem of false confessions?

While false confessions have become a household name, many do not know what exactly contributes to a false confession. Many people believe if they were interrogated about a crime they did not commit, they would simply refute it no matter how long they were questioned for. Two Canadian psychology professors were interested in pursuing just how many people would confess to a false memory if police interrogation tactics were applied. Their research (West, 2015) has shown that when subjects are given false information about a past memory, they begin to believe this false memory when persuasive interrogation tactics are present; in fact, 70 percent

of the subjects studied believed the false memory given to them and even provided rich details about these events that never occurred. Some people may take days to admit to a false memory, and some people may take hours to admit to it. However, the length of time required to admit to this false information does not make it any more or less truthful. When the adversarial nature of Reid techniques are present in the interrogation room, people may see a confession as the only way out of the prolonged questioning, as odd as it may seem. False confessions are clearly not inconsequential - due to the lack of follow-up corroboration investigators utilize after a false confession is made, many times this can transform into an issue of wrongful conviction.

While numerous factors contribute to false confessions, we will begin by focusing on the problems of cognitive dissonance and tunnel vision that occur within police departments that are the consequences of outside influences. Police investigators suffer from psychological problems like cognitive dissonance and tunnel vision due to a multitude of reasons. For example, an investigator might suffer from cognitive dissonance in order to secure a conviction if the crime being investigated garners a lot of publicity, and with that comes lots of public pressure. Cognitive dissonance is defined as “a psychological phenomenon that can cause us to push aside or deny information that conflicts with our most deeply held beliefs” (Godsey, 2017, p. 18). When investigators are given exculpatory evidence that may prove a suspect’s innocence, they will reason and may even come up with outlandish excuses as to why it does not prove their innocence. Additionally, cognitive dissonance can go hand in hand with tunnel vision. Tunnel vision is defined as “...the tendency fueled by bias and pressure that leads actors in the criminal justice system to single mindedly focus on a suspect and build a case for conviction while ignoring evidence that points away from guilt” (Reichart, 2016, p. 451). Tunnel vision occurs

when an investigator believes they have a “hunch” on a suspect or theory of events and will only pursue information related to that theory. This can cause an investigator to completely ignore or disregard other information or exculpatory evidence because it does not fit in their theory of events for the crime.

Tunnel vision and cognitive dissonance are often at play when investigators refuse to post-corroborate a confession; the investigator received the information they wanted to hear and will not try to disprove the theory they have stuck steadfastly on to. These psychological phenomena are closely associated with one another because they both can cause an investigator to make excuses for why their theory of events is correct. Cognitive dissonance and tunnel vision do not always occur due to corruption - it mostly occurs because of the pressures exerted on the investigators to secure a conviction. Investigators want to secure convictions to ensure the public’s safety and trust, to look good in their position, and to suppress any negative publicity. However, if an investigator is not careful, they can become victims to cognitive dissonance and tunnel vision, which can very likely lead to unethical interrogations and wrongful convictions. As we will see in the Thibodeaux case study discussed below, tunnel vision caused the investigators to only pursue a single suspect because he fit their original theory of the crime events. The investigators’ tunnel vision caused them to bully and intimidate Thibodeaux into a confession in order to secure a conviction - tactics that are considered unethical, and for good purpose. Unethical interrogation can be the consequence of psychological phenomena from public pressure or peer pressure within the department.

One of the most damaging consequences to unethical interrogations is a wrongful conviction. Otherwise known as a failure of justice, it is when an innocent person is convicted

and sentenced for a crime they did not commit. While long regarded as a rarity in the criminal justice system, the recent development of innocence non-profit groups has proved otherwise. There are a myriad of elements that may contribute to a wrongful conviction, but many focus on a botched or unethical interrogation that produced false information. This is because false confessions account for a staggering 27% of all wrongful convictions (Godsey, 2017, p. 125). False confessions will usually have information that does not correlate with the evidence found at the crime scene, as well as have many details that simply don't add up. This is because the confessor clearly did not commit the crime. However, investigators often don't conduct follow-up attempts to corroborate a confession because it is seen as a "slam dunk" to close an ongoing investigation. One of these unfortunate examples of failure to post-corroborate a confession is the Damon Thibodeaux case. Damon Thibodeaux was interviewed after the strangling murder and sexual assault of his cousin. Despite the absence of physical evidence pointing to Thibodeaux at the crime scene, investigators were interested in pursuing family ties to the murder. He was asked to take a polygraph test at his initial interview to ensure he had no involvement in the crime. After the polygraph, he was informed that he had failed and the investigators knew he was involved in the murder, when in fact Thibodeaux did pass the polygraph. The investigators also convinced the suspect that if he did not admit to the murder, the he would surely get the death penalty when he was convicted and sentenced. Thibodeaux was interrogated for nine hours until he admitted to the crime, and only 54 minutes of this nine hour interrogation was recorded (Godsey, 2017, p. 135). Additionally, his confession was inconsistent with the facts of the crime, such as the strangling method used to kill her. This could have easily been found if the investigators had followed up with the information given versus the evidence

present at the crime scene. Nonetheless, Thibodeaux was convicted and spent 15 years on death row because of this false confession. Not only did Thibodeaux's investigators engage in unethical behavior by threatening him with a certain harsh sentence like the death penalty and lying about the polygraph results - they also failed to investigate his confession itself.

Investigators must go into an interrogation hoping to receive as much information as possible, incriminating or otherwise, instead of maintaining a goal of getting a suspect to confess to a crime the investigator believes they committed. This then perpetuates the idea that once a confession is obtained, it is a "slam dunk" in the eyes of the investigator and thus there is no need to continue the investigation - regardless if the confessor is truly guilty.

Another prime example of unethical interrogations caused by these psychological phenomena is the infamous Norfolk Four case. The Norfolk Four was a group of four Navy sailors who were convicted of the rape and murder of another sailor's wife based solely on false confessions. This case is so outstanding in terms of false confessions because all four men confessed to this crime that they did not commit with no physical evidence present that could possibly incriminate any of them. Any reasonable person can admit that this case seems outlandish because of the unlikelihood of all four men falsely confessing. However, one must remember the Canadian study previously referenced - the two professors who conducted this study were assured that given more study participants, the likelihood of confessing to a false memory would steadily move closer to 100% (Godsey, 2017, p. 137). Additionally, these four men only falsely confessed to this crime after being unethically interrogated for hours. For example, Eric Wilson, one of the men of the Norfolk Four, said that Investigator Ford "... hit him several times and showed him photos of the crime scene and the victim and gave him details

about the crime to include in his confession” (Morehouse, 2019, p. 531). These men were being interrogated by an officer who had a history of eliciting false confessions from suspects and used the same fear tactic seen in the Thibodeaux case - he threatened to make sure all four suspects received the death penalty if they did not confess to the crime. Moreover, the investigator was providing them details about the crime - details “only the killer would know” so that Wilson’s false confession could seem more reliable with this correct evidence. Basically, Investigator Ford told Wilson the “correct story” to confess to, since he was not the true perpetrator of the murder. The investigators failed to thoroughly search the crime scene and pursued the four suspects based on a statement that another neighbor made. These four wrongful convictions were the result of tunnel vision and cognitive dissonance, as Investigator Ford went with his “gut feeling” and ignored all the exculpatory DNA evidence, as well as other physical and circumstantial evidence that directly contradicted the details given in the false confessions. Not only this, but he failed to post-corroborate any of the confessions, all of which were missing many crucial details about the crime and lacked any evidence to back them up. It is clear to see that Investigator Ford’s tactics to physically assault, intimidate, and coerce these men into a false confession is unethical in every sense of the word. While Investigator Ford is an example of a “bad apple” in law enforcement due to his use of physical assault in order to elicit confessions, he was also acting on tunnel vision and confirmation bias - both of which provided him the excuse to unethically interrogate these suspects. The circumstances seen here happen to many investigators and are not just reserved for corrupt officers, in fact, the tenacity to solve crime itself can cause corruption.

While departmental or individual corruption may be the cause of a minority of unethical interrogations, oftentimes that is not the case. Usually, when unethical interrogations occur, the

investigators in charge of the case will develop what is called noble-cause corruption.

Noble-cause corruption is when the commitment to make the world a safer place becomes more important than the means to accomplish these goals (McCartney et al, 2015). This is otherwise referred to the mindset of “the ends don’t justify the means”. This means that investigators are so committed to alleviating the suffering of victims and their families that they do not consider the ethicality or morality of their actions in order to do so. Simply put, their thinking is that the possibly illegal or unethical ways they extract information from a crime scene and suspect are not as important as the ends, which is justice for the victim. While the law enforcement officer has only good intentions to help the victims of crime, they may still be committing unethical actions in order to fulfill this intention. Unfortunately, this happens often in false confession cases because there are tenacious police officers who want to secure a conviction to alleviate further societal suffering, suppress further publicity, or are experiencing pressure from artificial time constraints within their department. This, in turn, can cause corruption because they may overstep their boundaries by committing assault against a suspect, ignoring a suspect’s constitutional rights, and engaging in various practices of unethical behavior to secure a conviction. Not only does this overstep their legal obligations as a law enforcement professional, but it often escalates into a very slippery slope that leads to false confessions and wrongful convictions.

This noble cause corruption is often indirectly encouraged within law enforcement departments. This is because it perpetuates the image of the tenacious police officer who stands up for victims and is “tough on crime”. While this is an ideal image to uphold, it is equally as important to balance the rights and interests of suspects as well. While they may very well be the

perpetrator of a heinous and violent crime, it is also possible that there is an incorrect interpretation of evidence and they are innocent of any wrongdoing. However, oftentimes investigators are married to the theory they have developed for the crime and will engage in unethical investigation under various pressures. For example, a police departments' ability to "clear" or resolve a crime is often evaluated to determine how well it is functioning and when assessing budgetary restrictions (Trainum, 2016, p. 70). If an investigator takes too long to solve a major crime, it can make the entire department look bad. This exerts pressure on the investigator to work quickly in order to resolve the crime and relieve themselves of the artificial time constraints placed on them by workplace superiors and the public, thus increasing the likelihood of unethical interrogations.

The best example of how artificial time constraints contribute to unethical interrogations and false confessions is the Reco Coates case study. A year after an unsolved murder occurred, Coates came under investigation as the result of rumors and questionable eyewitness accounts. During Coates' interrogation, investigators attempted to convince him that they had evidence of his connection to the crime - none of which existed - and threatened that if he did not confess, he would be sent to jail for at least 30 years. Coates became so frustrated after another round of interrogations he began to confess to parts of the crime in order to be released and left alone, even though he was not the true perpetrator of the crime. The investigators began feeding Coates information about the crime in order for him to confess to the "right story". This is a conversation Coates had with the investigator during this interrogation:

“Investigator: ‘You gave me a story. It’s not the right story.’

Coates: ‘What is the right story?’

Investigator: ‘The one that happened.’

Coates: ‘Just be honest with me and I’ll say it’” (Trainum, 2016, p. 201).

When artificial time constraints are placed on an investigator, their desperation to clear a crime can often result in situations like the Coates case study. They fed Coates information about the crime because investigators wanted to believe that was the only time a guilty suspect would be cooperative during the interrogation, not knowing it was because that was the “right story” he could falsely confess to. In order for a suspect to “correctly” falsely confess, they must confess with the right information, information “only the killer would know”. The investigators did not purposely seek to frame Coates, but rather they were under a lot of intradepartmental pressure to solve more crimes faster. This resulted in the admission of a false confession in court and the eventual wrongful conviction of Coates, all because of noble-cause corruption, artificial time constraints, and tunnel vision.

As we now see, many factors are at play when we examine the contributors to unethical interrogations and thus the contributors to false confessions. Both intradepartmental and public pressure mounts, which then causes psychological effects that act as a rationalization for this unethical behavior, which then causes an investigator to coerce a suspect into a false confession.

There have been many reforms in interrogation techniques throughout American history. We went from physically assaulting non-complying suspects to now recording every step of the interviewing and interrogation process to ensure the safety of both suspect and investigator. As we have explored, however, there is much work to be done in the investigative field when we become concerned about false confessions and wrongful convictions. One of the most crucial steps to bettering our ethical interrogation techniques is to provide better training and implement

universal guidelines for the training of investigators. Take the United Kingdom, for example. In the last few decades, their country has implemented a universal training in P.E.A.C.E., an interviewing and interrogation technique proven to be useful when talking to suspects of a crime. The major difference between P.E.A.C.E. and American interrogation is that the former seeks information, not just a confession, whereas the latter focuses on getting a suspect to confess to a crime the investigator believes they committed (Trainum, 2016, p. 217). Not only is the UK's training more focused on extracting the correct information regarding the crime, it requires a tiered training system to ensure law enforcement officials are equipped with the appropriate tools for interviewing and interrogation. In stark contrast to the American training, the P.E.A.C.E. courses are a multi-week intensive training that puts their students into the real-world situations they will find themselves in during their career as an investigator (Trainum, 2016, p. 227). In order to eliminate this gray area of ethical interrogation as much as possible, the United States needs to implement universal guidelines for law enforcement to follow. Additionally, interrogation tactics need to develop more towards finding the truth in evidence and series of events, rather than attempt to get a suspect to confess; this instead provides the opposite of the desired results, as a false confession will put an innocent person behind bars and keep the real perpetrator out in society.

Again, the most important change must be in developing a more investigative interviewing model, rather than an accusatory one. This is because although the United States has made progressive reforms in the aspect of ethical interrogation, it still can produce false confessions because of the very accusatory nature of the investigator that is learned through Reid Techniques. Many law enforcement agencies would say that our interviewing and interrogation

techniques today result in little, if any, false confessions and thus wrongful convictions. This is a very objectionable statement, as we see that false confessions and thus, wrongful convictions, happen just as much today as they did in the past. The focus, however, is not to discredit our law enforcement agencies, but rather enhance the techniques we utilize in the interrogation room. Investigative interviewing like P.E.A.C.E. allows for a suspect to tell their side of the story without feeling under pressure. This, in turn, can provide an investigator with more information than they would have gotten if they used an aggressive tactic of interrogation. Moreover, this inquisitorial system allows for a suspect to make incriminating statements more freely, as they will not consider themselves a serious suspect; it also provides more information for the investigator to use to corroborate and develop new theories of the series of events for the crime. This is such a renowned interrogation tactic because Hanns Scharff, a German interrogator in World War II, was able to extract secret State information from the Allied forces with these exact techniques (Trainum, 2016, p. 222). It goes to show that simply being nice can go a long way when attempting to extract information from a suspect, despite what the investigator believes their involvement in a crime may be.

In conclusion, the ethics of interrogation may be a disputed topic, but it cannot overshadow the importance of preventing false confessions and thus, wrongful convictions, as much as possible. The compelling amount of false confessions that occur even today should be a catalyst to reevaluate and redevelop our interrogation techniques in the United States. If not, failures of justice will continue and may even increase in severity in the future. Forensic interrogation is easily one of the most important aspects of a criminal investigation and contaminating it will ruin an entire case and possibly put an innocent person behind bars, as well

as leave a perpetrator out on the streets. Extracting information or confessions from suspects needs to be done so very carefully, and cannot be done when intimidation, fear tactics, false evidence, and other forms of coercion are used. A truly ethical investigator must place the importance of solving a case correctly over the artificial time constraints and intradepartmental pressure that is placed on them. The consequences of unethical interrogation, like false confessions, are a major miscarriage of justice and should not be happening at the rates that occur today. We must change the way we approach investigations in order to prevent these miscarriages of justice that are unfortunately becoming interconnected with our present adversarial system when conducting interrogations. To do so, there must be universal guidelines implemented and we must prioritize the officers' training in interrogation techniques. Moving towards a more inquisitorial nature of interviewing can alleviate stress and anxiety for both the suspect and investigator, and thus prevent further false confessions and wrongful convictions that go hand-in-hand with it. This interconnectedness between ethicality in interrogations and false confessions serves to discredit law enforcement and must be changed in order to prevent reoccurrence.

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