

How Cops Break Down the Innocent: The Tragedy of False Confessions

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There are enough injustices in our society without innocent people being convicted of heinous crimes. Yet, it turns out that happens with far greater frequency than we ever imagined. DNA testing, a relatively new phenomenon, has already exonerated 175 people convicted of crimes.

Then the more amazing part: one fifth of them had confessed to the crime! And when it comes to false confessions, this is only the tip of the iceberg. One study by two law professors documented 125 proven false confessions these include people exonerated before or during trial. And these are only the cases we /know/ about.

Why would anyone confess to a crime he didn't commit? A new website/blog, created by my sometime co-author Alan Hirsch, notes many reasons. But, Hirsch says, "In most cases, it's a function of interrogation tactics geared to break people down. These tactics succeed too well : they break down innocent people."

Some of the tactics are obviously deplorable. For example, interrogators exaggerate or fabricate evidence — for example, falsely telling a suspect that eyewitnesses saw him commit the crime. They often imply that the suspect will receive lenient treatment if he confesses and the most severe punishment if he refuses. Many false confessors are young or borderline mentally retarded, but the interrogation tactics taught to police could break down anyone. (In one social science experiment, students at Williams College falsely confessed to misconduct when confronted with bogus evidence.)

The Fifth Amendment to the United States Constitution protects a person from being a "witness against himself." All too often that is what happens not on the witness stand but in the police station, and even after a person has been read his rights. The spirit and sometimes letter of the Fifth Amendment are violated routinely as such police cajole and bully innocent people to confess. Prosecutors, judges, and juries usually ratify the error because they can't believe the confessor innocent only adding to the suspect's Kafkaesque nightmare.

Why would the police engage in outrageous tactics that implicate the innocent? For the same reason that prosecutors, judges, and juries play their roles in this tragedy they are convinced that no one would actually confess if he were innocent. Since we now know that this intuition is false, we need to take measures that guard against false confessions. Hirsch's website proposes a range of reforms, including mandatory taping of interrogations. But, he suggests, the most important reform is education.

Everyone must recognize that false confessions can and do occur. The realization is particularly important among law enforcement and judges — but also everyday citizens. This is partly because everyday citizens comprise juries, and it is typically juries who convict false confessors. Ordinary citizens also elect representatives, and some of the necessary reforms require legislation.

Again, nothing will happen until we overcome the intuition that innocent people don't confess. How strong is that intuition? Even /after/ DNA exoneration, many defendants remain incarcerated or have to face another trial, because prosecutors or judges still refuse to believe that the confession was false. Sometimes prosecutors concoct an entirely new theory of the case (for example, that the defendant was an accomplice rather than the actual perpetrator) supported by zero evidence.

False confessions are far from the only cause of wrongful conviction. Other common sources include mistaken identification, false accusations (a cousin of false confessions), government misconduct, junk science, and poor defense lawyering. Some of these problems are particularly acute, such as the unreliability of eyewitness identification and the inadequacy of many over-worked and under-funded public defenders and court-appointed attorneys.

The reality of wrongful convictions has many ramifications, including for capital punishment. Some people who do not object to the death penalty in principle recognize that it will inevitably result (and no doubt already has) in the execution of some innocent people. Indeed, some of the wrongfully convicted exonerated by DNA were only days away from execution.

We cannot possibly accept putting people to death without knowing that they are guilty. The false confession phenomenon is a powerful reminder that we often /think/ we're certain of guilt without an adequate basis. After all, what could be more reliable than a defendant's own admission that he committed the crime? That's what we used to think. Now that we know better, it should give people pause about many aspects of our criminal justice system, including the death penalty.

For serious insight into these problems, for laymen and lawyers alike, and a sense of what you can do to help, www.truthaboutfalseconfessions.com is a good place to start.

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