

False Confessions. It could be you.

Gisli H. Gudjonsson, PhD
Professor of Forensic Psychology
Institute of Psychiatry
King's College, London

gisli.gudjonsson@kcl.ac.uk

Objective

To review the current knowledge about false confessions.

The Stockholm Conference in 1981

- Conference in Stockholm in Witness Psychology in September 1981. Gisli Gudjonsson and Jim MacKeith presented a paper on false confessions and psychological effects of interrogation.
- Participants were sceptical about false confessions in the absence of severe mental disorder.
- At the Conference Gudjonsson and MacKeith introduced the concept of 'Memory Distrust Syndrome', which was later to become embedded into the scientific literature.

Police interviewing.

Police interviewing is best conceptualized as a dynamic and interactive social process, the outcome of which is influenced by a number of **contextual** (e.g., seriousness of the offense, strength of the evidence, the presence of a lawyer), **custodial** (i.e., the nature and length of the custodial confinement and type and duration of questioning), and **individual differences** (e.g., age and motivation of suspect, intelligence, mental health, personality) factors.

The principles of police interviewing.

The principal objective of police questioning, whether interviewing witnesses, victims or suspects, is to gather relevant information about a suspected or reported crime. **In the interest of fairness and justice, it is important that the information elicited is accurate (i.e., truthful and precise), complete, coherent, and credible, and meets legal criteria for evidential purposes**

Types of studies:

- Real life cases, typically the most serious cases (murder and sexual offences). Retrospective analysis of cases.
- Surveys among different populations (a number of published studies).
- Laboratory experiments in order to investigate conditions under which false conditions occur and individual vulnerabilities (e.g. age, suggestibility, confabulation).

Conceptualisation of False Confession (1)

- A normal phenomenon triggered by unusual circumstances (Munsterberg, 1908).
- Distinct psychological types (Kassin and Wrightsman, 1985).
- An interactional model (Gudjonsson and MacKeith, 1997; Gudjonsson, 2003).

Types of false confession.

- Police induced (internalized or compliant type).
- Voluntary false confession (taking on a case for a peer, for attention, notoriety, revenge, depression/need for punishment, distortions of reality).

An Interactional Model

- **POLICE FACTORS:**

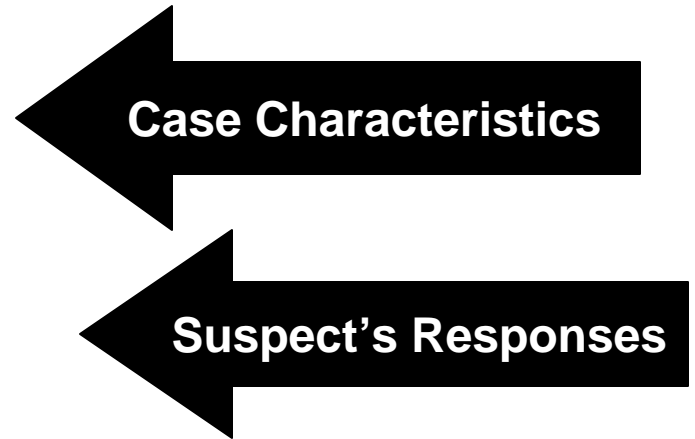
- Custodial pressures.
- Interrogative pressures.
- Personality of interviewers.

- **VULNERABILITIES:**

- Physical health.
- Mental health.
- Psychological vulnerabilities.

- **SUPPORT:**

- Solicitor.
- Appropriate adult.



False Confessions:

- Base rate of criminal cases unknown.
- Numerous anecdotal cases reported in UK and USA.
- Out of 243 DNA exonerations (26.10.2009). 60 (15-20%) involved false confessions and some additional false pleas.
- Drizin and Leo (2004). 125 case (1971-2002; 81% murder cases, 8% rape).
- Gudjonsson (2006, in press) UK cases.
- Published cases focus on most serious cases and neglect minor and less notorious cases.

False Confession of a normal young man:

- In 1987 a 17 year old man confessed to the murders of two elderly women who had been sexually assaulted.
- Interviewed within PACE.
- Interviewed for 14 hours over two days.
- His denials were repeatedly challenged.
- Confessed after being asked about his sexuality and masturbation.
- The following day tried to retract the confession in the presence of a solicitor, but when challenged broke down and confessed again.

False Confession of a normal young man (cont.):

- Confession appeared to be detailed and credible and the suspect was remanded in custody.
- Prior to confessing started sobbing, shaking and crying.
- He was in custody for several month, but was released after the real murderer was apprehended.
- Psychiatric and psychological evaluations revealed no mental illness and he was of average intelligence.
- He proved on testing to be abnormally suggestible.

Special or guilty knowledge.

- Most cases of false confession involve claims by police and prosecution that the suspect knew details about the crime, which was not in the public domain (i.e. salient details beyond, “I did it”).
- Special knowledge is a very powerful corroboration/evidence in Court.
- Special knowledge is grossly overrated in Court. If the police knew the details apparently elicited by the suspect then it could have been communicated to the suspect during questioning or outside the interview room (e.g. in a police cell, on the way to the interview room, visit to the crime scene).

**The substance of false confessions by B L
Garrett – Stanley Law Review – forthcoming.**

- “A puzzle is raised by cases of false confessions: How could an innocent person convincingly confess to a crime? Post-conviction DNA testing has now exonerated 232 convicts, 34 of whom falsely confessed to rapes and murders....**Not only can innocent people falsely confess, but all except one of these exonerees were induced to deliver false confessions with surprisingly rich, detailed, and accurate information. We now know that those details could not have originated with these innocent people, but rather must have been disclosed to them, most likely during the interrogation process”.**

Community Surveys.

Sample	N	Mean age (years)	Interrogated (%)	Base rate of guilt (%)	False confession of those interrogated (%)
Icelandic college students	1,080	18	25	67	3.7
Icelandic University students	666	24	25	66	1.2
Icelandic college students	10,472	18	19	67	7.3
Danish college students	715	19	10	51	6.8
European students	24,627	15.5	11.5	44	13.8

Reasons for making false confessions

- Usually a combination of factors (custodial, interrogative, situational, psychological vulnerability).
- Protecting somebody else (e.g. youth).
- Part of a delinquent/criminal life style and peer group.
- Escaping custody or detention (e.g. drug addicts, fear of detention, wanting to go home).
- Cannot cope with the interrogative pressure.
- Taking revenge.
- In most of the case there are no psychiatric issues, the relevant factors were more often psychological.

The 34 cases (1)

1989-2009

- 27 murder cases.
- 4 terrorist cases (including murder convictions: e.g. 'Guildford 4', 'Birmingham Six').
- 1 attempted murder (Paul Blackburn).
- 1 conspiracy to rob (Kayed Antar).
- 1 sexual assault (Shane Smith).

The 34 cases (2)

- 45 successful applicants, 42 males, 3 females.
- Average age 25 years, range 14-45.
- Two of the convictions dated back to 1953, one was posthumous (Derek Bentley).
- Convictions quashed between 1989-2009 (Guildford Four to Ian Lawless).

Oral testimony regarding vulnerabilities

- Oral psychological or psychiatric testimony in 16 cases (47%).
- Psychiatric evidence only in 2 cases (6%) (Fletcher and Long).
- Psychological evidence in 14 cases (41%).
- In 12 cases (35%) where there was no oral psychological evidence, the psychological report was found to be influential in the Court of Appeal. One case (Donald Pendleton) went to the House of Lords.

Main reasons for overturning the conviction

- Psychological vulnerability (N = 23 - 68%).
- Police impropriety/malpractice (N = 10 - 29%).
- DNA exoneration (N = 1 – 3% - Robert Hodgson).

Psychological vulnerability

- None had IQ scores below 70.
- Half had IQ scores in the borderline (70-79) range.
- Most common personality traits were abnormally high compliance and suggestibility.
- Personality disorder was important in some cases (Judith Ward, Darren Hall, John Flanagan).
- Clinical depression was important in the case of George Long.
- Inability to handle the police pressure crucial in most cases.
- In one case (Blackburn), fatigue during custody was found to be crucial.

Changing minds changes lives



19th October 1989

The Birmingham Six on 14th March 1991



Cases on Death Row in the USA

- **Joe Giarratano** – A murder case from 1979. In 1990 Gudjonsson and MacKeith went to Virginia to assess Joe Giarratano and produced reports, which help to persuade the Governor of Virginia in February 1991 to invoke his clemency powers and he commuted the death sentence to life imprisonment .
- **Henry Lee Lucas** – Arrested in June 1983 suspected of two murders (Freda Powell and Kate Rich) in Texas. Held in isolation for 4 days. Was to confess to over 600 murders. In April 1984 convicted of the ‘Orange Socks’ murder and received the death penalty. Gudjonsson assessed Lucas in 1996 and testified. Lucas execution set for 30 June 1998. On 26 June 1998 George W Bush granted clemency and stated:

“I believe that there is enough doubt about this particular crime that the State of Texas should not impose the ultimate penalty.”

A case from Norway.

- **Brigitte Tengs** – Found murdered in May 1995. Two years later her cousin was interrogated for 170 hours and confessed. Convicted in November 1997. An appeal in 1998. Gudjonsson testified as a court appointed expert along with a Swedish Psychiatrist, Ulf Asgard. Gudjonsson considered the confession 'false', Asgard considered it 'true'. The cousin was acquitted by a jury. The judges considered him guilty on the balance of probability and ordered him to pay compensation to the victim's family. During the re-investigation of the case, the cousin was exonerated by DNA and received compensation.
- This case changed the legal system in Norway. A Criminal Cases Review Commission was set up and active training programmes in police interviewing were established.



TVILER: Den britiske psykologiprofessoren Gislí Guðjónsson mener Birgitte-tilståelsen er falsk.

- Birgitte-tilståelsen er

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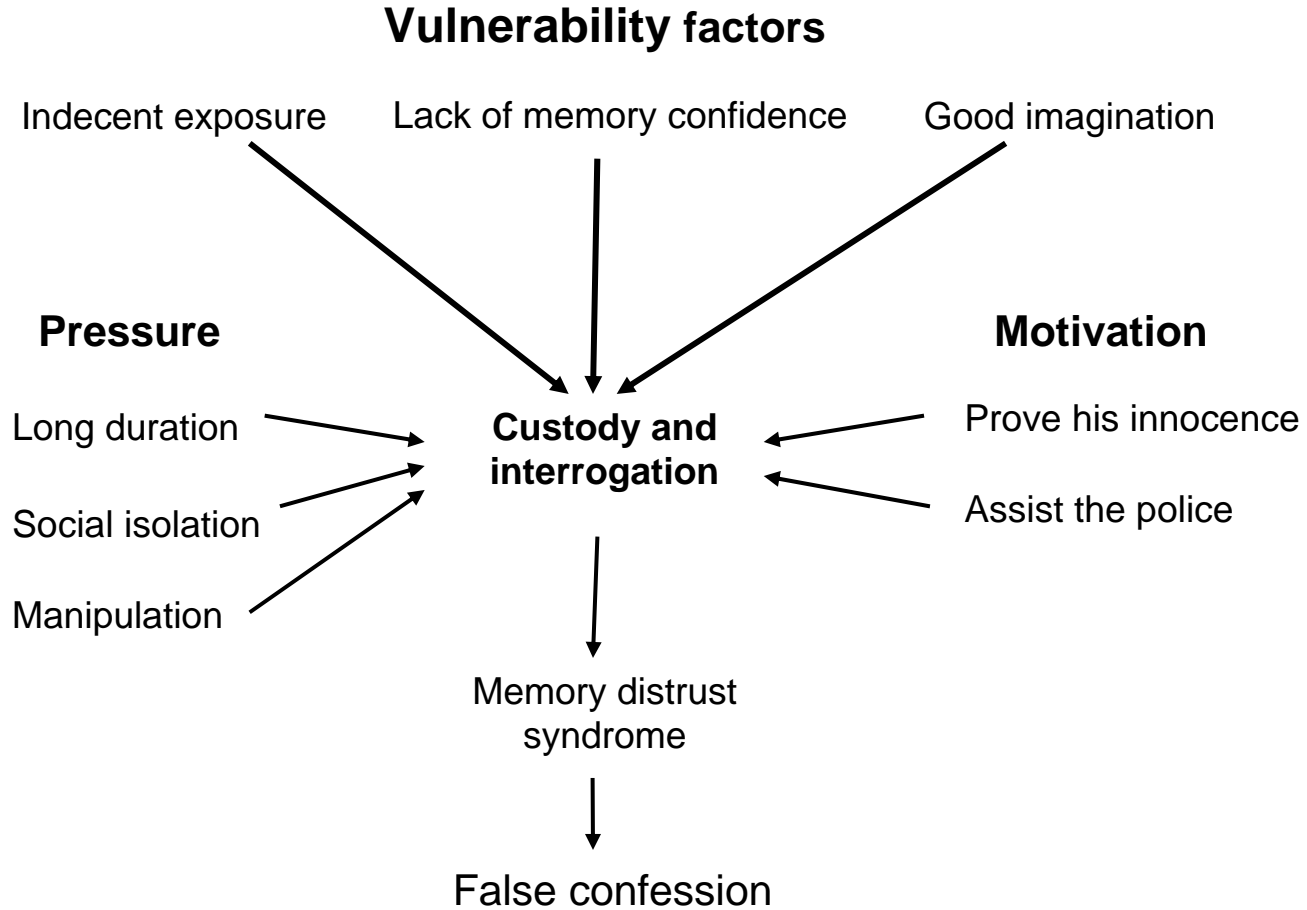


TROR: Den svenske politipsykiateren Ulf Åsgård mener tilståelsen er ekte.

- Birgitte-tilståelsen er

EKTE

Graphic representation of the false confession to murder case in Norway



Conclusions

- In the 1980s and 1990s there was great scepticism about false confessions. Many people considered it inconceivable unless there was evidence of a major disorder (e.g. mental retardation).
- False confessions to serious crimes are well documented. DNA exonerations have greatly assisted with substantiating this.
- There is growing evidence that false confessions occur much more often than previously thought.
- Even though young people and those with mental health problems are apparently more vulnerable than others to faking false confessions, on occasions 'normal' persons are manipulated by police to give false confessions to serious crimes. Next time, it could be you.
- Playing on suspects vulnerabilities to elicit a confession is a very dangerous strategy, which can easily result in a false confession.

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