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An Analysis of Wrongful Convictions by Police-Induced False Confessions

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## **Introduction**

Why would an innocent person confess to a crime that they did not commit? Many people struggle to understand the very possibility that false confessions are conceivable, let alone common. False confessions often lead to wrongful convictions and incarcerations (Appleby et al., 2011; Godsey 2017; Kassin, 1997). Even in cases without forensic evidence, false confessions have been enough for a conviction (Godsey, 2017). Wrongful convictions have an impact on more than merely the people involved in the cases.

Wrongful convictions have two major negative effects on society: (1) innocent people are imprisoned, and (2) the real perpetrators remain on the street. Current police interrogation tactics are one of the underlying causes of wrongful convictions because these tactics frequently lead to false confessions. (“Facts and Figures,” 2014). Some groups of people are specifically at risk for police-induced false confessions (“False Confessions or Admissions,” 2011; Leo, 2009; TED, 2016). However, we are all susceptible. In order to analyze this systemic issue, this paper will discuss police interrogation tactics, the association between police interrogation tactics and false confessions, the association between false confessions and wrongful convictions, the ways in which wrongful convictions affect communities and its members, and possible ways to mitigate this problem. Although current police interrogation methods can be useful at eliciting confessions, these methods must be reformed in light of evidence that police-induced false confessions occur and result in wrongful convictions.

### **Police Interrogation Tactics: The Reid Technique**

The very way in which detectives are trained to get a confession is flawed by nature. Most police departments use variations of the Reid Technique to elicit confessions from suspects (Johnson, 2017; Starr, 2013). This method ultimately increases the chance of wrongful

convictions by police-induced false confessions. In order to understand the association between these police interrogation tactics and false confessions/wrongful convictions, the police investigation tactics must first be examined. The Reid Technique is comprised of three components: factual analysis, interviewing, and interrogation.

The first step of an investigation is the factual analysis. This involves collecting basic information about the suspect and the crime scene. As described by the Reid Association:

Factual analysis relies not only on crime scene analysis, but also on information learned about each suspect... Applying factual analysis... results in establishing an estimate of a particular suspect's probable guilt or innocence based on such things as the suspect's bio-social status (gender, race, occupation, marital status, etc.), opportunity and access to commit the crime, their behavior before and after the crime, their motivations and propensity to commit the crime, and evaluation of physical and circumstantial evidence.

(Jayne & Buckley, 1999)

In other words, the first step of an investigation is combining demographic information about the suspect with the crime scene in order to determine the likelihood of guilt. If the detectives believe that it is probable that the suspect committed the crime, the detectives bring the suspect in for an interview.

The second step of an investigation is the Behavioral Analysis Interview (BAI). This interview differs from an interrogation because it is non-accusatory:

[The BAI] provides objective criteria to render an opinion about the suspect's truthfulness through evaluating responses to the behavior-provoking and investigative questions. In addition, the BAI facilitates the eventual interrogation of guilty suspects...

by establishing a working rapport with the suspect during the non-accusatory BAI, and developing insight about the suspect and his crime to facilitate the formulation of an interrogation strategy. (Jayne & Buckley, 1999)

Detectives are trained to look for deception cues related to things people do when they are stressed (Baverstock Psychology, 2014; Starr, 2013). Some examples of deception cues include turning away from the interviewer, cognitive dissonance, indirect answers, concealing true emotions, and overselling the story (stating “trust me” or “honestly”). Detectives are taught that these cues are indicators that the person is lying (Baverstock Psychology, 2014). If a detective believes someone could be guilty of the crime, that person is labeled a suspect, and the detective brings the suspect in for an interrogation.

The final step of the Reid Technique is the interrogation, which is comprised of a nine-step process. If someone is brought in for an interrogation, it can be assumed that this person is a suspect in the case (TED, 2016). There are nine steps to the interrogation process:

1. The positive confrontation: The detective tells the suspect that the evidence proves their guilt.
2. Theme development: The detective uses minimization to present a moral explanation for why the suspect may have committed the crime, and the detective reassures the suspect that other people will understand. This sometimes involves using phrases such as, “You didn’t mean for it to go that far. It was an accident.”
3. Handling denials: If a suspect asks permission to speak, this should be seen as a sign of guilt. Detectives trained in the Reid Technique are taught that an innocent person would respond “promptly and unequivocally” instead of asking permission to speak.

4. Overcoming objections: The detective should accept any objections that the suspect has (i.e. “I would never do this because...”) and use it to further their theme (see step #2).
5. Procurement and retention of suspect’s attention: The detective should help focus the suspect’s attention on the detective’s theme instead of the possible consequences of confessing.
6. Handling the suspect’s passive mood: The detective should further reinforce the theme, be sympathetic, and encourage the suspect to tell the truth.
7. Presenting an alternative question: The detective should give two versions of what could have happened – one, the original sympathetic theme, and two, a malicious version which suggests intent. This will encourage the suspect to confess to the more favorable story.
8. Having the suspect orally relate various details of the offense: After the suspect confesses to one version of the story, the detective should acknowledge that the suspect has just confessed, and then ask the suspect to orally state a review of what happened. The detective should then verbally acknowledge the confession and ask the suspect to repeat their confession.
9. Converting an oral confession to a written confession: The website gives some suggestions in order to minimize false confession rates, such as repeating Miranda Rights, using the suspect’s own language, and avoiding leading questions. (Jayne & Buckley, 1999)

This method is problematic, even before we consider the implication it has on false confessions. The Reid Technique and variations of it rely on manipulation and repetition, where the suspect may be fed the same incorrect story of what happened dozens of times (Johnson, 2017). This type of interrogation puts stress on individuals and can worsen mental health problems,

especially anxiety (Leo, 2009). Although some may argue that these elements of an interrogation are necessary in order to get a guilty person to confess to a crime, the data which supports the Reid Technique's use *merely* suggests that the tactics increase the rates of a confession – the institution does not go into detail about how many of these confessions are accurate (“Survey results,” n.d.).

Despite the possibility of pushing innocent people to confess, detectives use these tactics for a couple of reasons. The main reason detectives use Reid Technique tactics like pushing a narrative onto a suspect is because these tactics are effective at eliciting confessions. Detectives feel a high amount of pressure to obtain a confession for political reasons: “Office politics, and the desire for internal advancement, create a pressure to solve cases and convict. And the more difficult the case—in other words, the more that evidence of innocence exists for a defendant to exploit at trial—the more a conviction serves as a feather in the police officer’s or prosecutor’s hat” (Godsey, 2017, p. 75). In other words, because detectives want to be a hero who can solve any case, they may be more likely to use manipulative tactics during the interrogation. Furthermore, detectives may also use an economic rationale when determining how to proceed in a case. The detective’s department budget for the following year depends partially on the number of convictions/arrests they make this year (Godsey, 2017). These political and economic rationales are not always conscious.

Another reason police may use questionable techniques is the misclassification error, which happens when detectives target an innocent individual they believe to be guilty and let their belief guide all of their interviews and interrogations (Leo, 2009). Many investigators think that the criminal is sitting right in front of them, and they need to do whatever is required to assure a confession (Godsey, 2017; Leo & Ofshe, 1998). Police are very confident in their ability

to determine who is guilty. As discussed earlier, police are taught deception cues, or indicators of stress which are inferred as signs that the suspect is lying. A lot of people think they can tell when a person is lying, but lie detection is actually only 54% accurate (Baverstock Psychology, 2014). Despite their training and confidence, police officers are no more accurate at detecting lies than the typical person, averaging 50 to 57% accuracy (Godsey, 2017). The combination of police being unable to tell when a suspect is lying while simultaneously being good at eliciting confessions results in more false confessions.

### **False Confessions by Police Interrogation Tactics**

The Reid Technique is good at getting people to confess to crimes, but it increases the risk of false confessions (Godsey, 2017; Johnson, 2017; Kassin, 2008). The Reid Association states false confessions are due to the way the Reid Technique is misused and not inherently due to the Reid Technique itself (John E. Reid and Associates, Inc, 2000). However, there is little debate that the Reid Technique as utilized has deleterious consequences (Johnson, 2017). Furthermore, the Reid Association claims they advise against some tactics, such as asking leading questions (Jayne & Buckley, 1999; John E. Reid and Associates Inc., 2000), but leading questions are inevitable when investigators are taught to paint a narrative of how and why suspects could have committed a crime. Furthermore, data suggesting that the Reid Technique is effective at getting truthful confessions is lacking, and the Reid Technique creates an environment where leading questions and other questionable tactics are naturally used by investigators.

As previously discussed, detectives see deception cues as indicators of lying. However, just because a suspect is stressed during an interrogation does not necessarily mean that they are lying. When people are interrogated by the police, they are in a stressful environment, regardless



of whether they are guilty of the crime (TED, 2016). In addition, not everyone displays deception cues when they are stressed. Detectives try to determine whether suspects are lying about their innocence during the interview stage of the investigation. Recall that lie detection is about 54% accurate, meaning it is just better than a coin flip (Baverstock Psychology, 2014). Even though the data suggests detectives' ability to read these individuals is not reliable, the misclassification error nevertheless has the implication of police using pressure to induce a confession. As a result of the misclassification error, false confessions become more likely, partially because the misclassification error causes detectives to focus all their energy on getting one suspect to confess to the crime, even when evidence is lacking.

The coercion effect often follows the misclassification error. When there is not enough evidence against their prime suspect, police may feel pressured to get a confession using coercion. This often involves lying about evidence. For example, detectives may tell the suspect that they have their DNA at the scene of the crime (Kassin, 2008; Leo, 2009). Many people do not realize that this tactic is legal, and thus suspects may confess to the crime out of fear of a worse punishment (TED, 2016). Along with this tactic, detectives will often tell suspects that no one will believe their story – after all, the scientific evidence is all pointing towards them. In addition, detectives may promise leniency if the suspect confesses or threaten harsher punishments if the suspect decides to stick with their story (Leo, 2009). Coercion may cause the suspect to believe that (1) nothing they say will change the outcome, therefore confessing would be the less draining choice, or (2) continuing to deny their involvement may actually make their outcome worse, in which case confessing sooner rather than later would result in a better outcome (TED, 2016). Suspects ultimately find confessing to the crime to be the easier and best option. Furthermore, detectives' behaviors may also suggest the suspect will only be allowed to

leave once they confess. The average interrogation lasts for more than 16 hours in false confession cases (TED, 2016). If the suspect is worn down and the detective promises that the suspect that they will get to sleep in their own bed if they confess, this option may sound tempting – and after being psychologically manipulated for hours, the suspect is not necessarily thinking about what a confession means for their future (Leo, 2009). Essentially, the coercion effect is what happens when a suspect feels as though they have no option but to confess. Police are very repetitive when using this type of approach. Thus, false memories can easily form (Godsey, 2017). Because of these coercive tactics, many suspects come to believe that they actually committed the crime. As a result of this false belief, false confessions may become more prominent.

The contamination error is a prime element of the Reid Technique. The contamination error occurs when detectives craft a narrative as to what happened, and the suspect ends up confessing to a story they were told. Police trained in the Reid Technique use minimization to suggest a reasonable explanation for why the suspect may have committed the crime (Jayne & Buckley, 1999; Kassin, 2008; Leo, 2009), oftentimes implying the incident must have been an accident. Suspects know exactly what the detectives expect to hear, and the detectives try to make it seem like the crime was understandable. In addition, detectives sometimes share evidence or information about the crime scene with the suspect that they would not otherwise know. Sharing evidence and the creation of a narrative can alter the suspect's memory and thus contaminate their testimony:

The innocent suspect's postadmission narrative should therefore be replete with errors when he responds to questions for which the answers cannot easily be guessed by chance... If the entire interrogation is captured on audio or video recording, then it may

be possible to trace, step by step, how and when the interrogator implied or suggested the correct answers for the suspect to incorporate into his postadmission narrative. If, however, the entire interrogation is not recorded—and most documented false-confession cases are not—then there may be no objective way to prove that the interrogator contaminated the suspect's postadmission narrative. (Leo, 2009, p. 337)

Memories can very easily be changed if the police use suggestive narratives. Essentially, hearing new information, either about the crime scene or evidence of guilt, can change the suspects' memories. This is because the suspect is trying to make sense of how the new information could be possible. In using either of these tactics, false memories can form, and the suspect may confess to a crime they did not commit. Although it may seem absurd to those who have not been through the process themselves, research overtly supports the idea that our memories are susceptible to change due to these kinds of outside forces:

In a famous series of experiments [Dr. Elizabeth] Loftus, APS [Association of Psychology Science] Past President, was able to help people create memories for events that never happened in their lives simply through prompting. She helped them “remember” being lost in a shopping mall when they were children, and the longer the experiment went on, the more details they “remembered.” The longer police interrogate a suspect, emphatic about his guilt and peppering their interrogation with details of the crime, the more likely a suspect is to become convinced himself. (Herbert, 2009, p. 10)

Even if a suspect is not easily persuaded to believe they committed the crime, the job of the interrogator is still to get a confession out of them (TED, 2016; Leo & Ofshe, 1998).

Manipulation is a powerful tool. If a suspect believes they are powerless (nothing they say or do

will convince the detectives of their innocence), the risk of a false confession increases, regardless of whether or not the suspect believes they are guilty (Leo, 2009).

The intentions of the police are not necessarily to manipulate the situation (Godsey, 2017). Many of the justifications for problematic tactics go back to the misclassification error. The detectives target their suspect, and they try to get a confession out of them no matter what it takes. These detectives do not realize that their own actions and biases make the suspect's confession unreliable. The misclassification error often occurs simultaneously with noble-cause corruption. Many detectives have good intentions when they try to get a confession. Noble cause corruption is what happens when detectives genuinely believe they are doing what is necessary in order to protect society (Godsey, 2017). In other words, detectives convince themselves that their prime suspect is guilty (misclassification error), and because they believe the conviction of this individual would protect society, the detectives are able to justify the interrogation tactics they use, as these tactics allow them to obtain a confession with more ease (noble-cause corruption). These detectives believe the end justifies the means. However, they do not realize that the end is oftentimes a false confession.

A false confession highly increases the chance of a wrongful conviction (Appleby et al., 2011; Godsey, 2017; Rakoff, 2014), which is a problem not only because an innocent person is made to suffer, but also because perpetrators are allowed to wander the streets. Even when presented with DNA evidence, police are still reluctant to change their opinion of the suspect's guilt (Godsey, 2017). Although anyone is susceptible to police-induced false confession, some people are at an elevated risk.

### **Who's at Risk for False Confessions?**

There are many characteristics that put people at a heightened risk of making a false confession, and these characteristics are highly inter-connected. This section will examine a few possible links between risk factors before applying this information to the case study of Brendan Dassey of *Making a Murderer* and a less vulnerable population of college students.

People with mental illnesses and cognitive disabilities are more likely to make a false confession (Leo, 2009). In addition, people with low assertiveness are more likely to make a false confession (Leo, 2009), which is probably related to the fact that they do not want to disagree with authority figures within the police department. Young people are also at a higher risk of making a false confession (Leo, 2009; Meyer & Reppucci, 2007). This could be partially due to their naivety of how the system works, but it is also probable that young people are at risk because they are taught to obey and cooperate with authority figures as well. Ignorance of the law is another risk factor for false confessions (“False Confessions or Admissions,” 2011). These variables are often inter-related. For example, it is likely that children do not have a good concept of their rights. However, ignorance of laws could apply to many other groups of people as well. Even college educated students may not have been taught or concerned enough to learn their civil rights.

Minorities, non-native English speakers, and undocumented immigrants are also more likely to confess to a crime they did not commit (TED, 2016). I would suspect that this could also be related to low-assertiveness and potentially ignorance of the law. Fear of violence or the actual infliction of violence are two other risk factors when it comes to false confessions (“False Confessions or Admissions,” 2011). Minority groups who experience social inequality and racism on a daily basis may actually be at an increased risk due to the fact they are afraid they will be further harmed if they disagree with the police.

Other characteristics can play a role as well. For instance, people who are sleep deprived are more likely to make a false confession than those who are not (Leo, 2009). Oftentimes sleep deprivation is related to the length of the interrogation – and the longer the interrogation lasts, the more likely a false confession becomes (TED, 2016). In addition, stressed people are more likely to confess to a crime (TED, 2016). Although more research needs to be done, these variables (sleep deprivation, length of interrogation, and stress) are likely all connected to one another. In other words, if a suspect has one risk factor, they are likely to have multiple factors.

One helpful way to think about the inter-relation between these variables is to consider the experience of Brendan Dassey, which was shown in the 2015 Netflix documentary *Making a Murderer*. This documentary followed the case of Steven Avery and his nephew Brendan Dassey, who were investigated in 2007 for the murder of Teresa Halbach (Demos & Ricciardi, 2015). Dassey was easily manipulated by detectives. At the time of the interrogation, Dassey was a 16-year-old boy with an IQ of 70 and a learning disability (Demos & Ricciardi, 2015). His young age (Meyer & Reppucci, 2007), low IQ score (Leo, 2009), and learning disability (Leo, 2009) are three factors that increased his chance of making a false confession. Dr. Nancy Franklin, a faculty member in the Stony Brook University Psychology Department, discusses how interrogations of intellectually impaired individuals often play out:

They [intellectually impaired individuals] are less likely to think about those long-term consequences. They are more deferential to authority figures. They are more easily led by questions or suggestions made by an interrogator. And you can imagine how those things combine. Think about that. So, the interrogator might ask, “Who shot the victim?” And the intellectually impaired innocent suspect has no idea, but they want to be cooperative. And they may think that they need to guess, or that they're expected to, and so they do –

Not realizing they're not only implicating the person they named, but they're implicating themselves. They're implying that they were there. (TED, 2016, 7:08)

This is exactly what happened to Dassey. The detectives fed Dassey information and used other tactics like coercion and repetition in order to get him to confess to a story he was told. Dassey appeared to guess at what the detectives wanted to hear, and when Dassey ran out of ideas, the detectives filled in the gaps. During one part of the investigation, the detectives kept asking Dassey what happened to Halbach's head. As Dassey wanted to cooperate, he continued to guess:

Detective Mark Wiegert: Something with the head. Brendan? What else did you guys do? Come on.

Detective Tom Fassbender: What he made you do, Brendan... We know he made you do something else.

Detective Wiegert: What was it? [pause] What was it?

Detective Fassbender: We have the evidence, Brendan. We just need you to be honest with us.

Brendan Dassey: That he cut off her [Halbach's] hair.

Detective Wiegert: That he cut off her hair? Okay. What else?

Detective Fassbender: What else was done to her head?

Dassey: That he punched her.

Detective Wiegert: What else?... It's okay. What did he make you do?

Dassey: Cut her.

Detective Wiegert: Cut her where?

Dassey: On her throat.

Detective Wiegert: You cut her throat?... What else happens to her? In her head?

Detective Fassbender: It's extremely, extremely important you tell us this... for us to believe you.

Detective Wiegert: Come on, Brendan. What else?

Detective Fassbender: We know. We just need you to tell us.

Dassey: That's all I can remember.

Detective Wiegert: Alright, I'm just going to come out and ask you. Who shot her in the head?

Dassey: He did.

Detective Wiegert: Why didn't you tell us that?

Dassey: Cause I couldn't think of it. (Demos & Ricciardi, 2015, 53:17)

In Dassey's case, he had no recollection of Halbach being shot in the head. Prior to this instance, Dassey had merely been guessing what had happened to Halbach's head in hopes of pleasing the detectives (Demos & Ricciardi, 2015). However, upon being told what happened, he agreed that he witnessed it – suspects' suggestibility can lead to false confessions, and intellectually impaired people (TED, 2016) and young people (Leo, 2009; Meyer & Reppucci, 2007) are more likely to make these confessions.

However, these risk factors alone were likely not the only reason that Dassey falsely confessed to the crime. The detectives lead Dassey to the answers they wanted to hear. In addition, the contamination error was clearly prevalent throughout the interrogation – no one in the general public would have any way of knowing how Halbach died. Instead of holding onto this piece of evidence, Dassey's detectives shared the information with him. The contamination error harms the validity of cases because it becomes unclear whether the suspect actually



remembers the event, or if they are merely repeating the story that they are told (Leo, 2009). Furthermore, Dassey had been in the interrogation room for a long time, and he was under the impression that admitting to the crime would mean he could go back to school – he did not appear to understand that confessing would mean he would have to go into custody (Demos & Ricciardi, 2015). He had a misunderstanding of the situation, another risk factor when it comes to false confessions (“False Confessions or Admissions,” 2011). Although some groups of people are clearly more vulnerable to the effects of police interrogation tactics than others, there are so many personality traits and unique circumstances that play a role in false confessions that we cannot possibly determine which suspects are actually guilty when coercive police interrogation tactics are used – We can all be susceptible.

Many people think they would never make a false confession. However, even populations who may not seem vulnerable are still at risk for false confessions. This is somewhat in part due to police interrogation tactics that can lead to false memories. A recent study was conducted on college students. The sample was predominantly white and native English speakers. During the study, a primary caregiver was asked to report a highly emotional event from the student’s early adolescence in detail. The caregivers were asked if their child had experienced assault, assault with a weapon, theft, an accident, an animal attack, or losing a large amount of money. Three interviews with participants were conducted. During the first interview, the researcher told the participants two stories from the participant’s adolescence – one story which was recalled by the participant’s caregiver, and one story which did not actually take place. The researchers told the participants that they had learned of both stories from the caregiver. During the first interview, most participants had no recollection of the false story, but by the end of process, 70% of them not only confessed, but had also developed a false memory of committing the crime (theft,

assault, or assault with a weapon) (Shaw & Porter, 2015). This number is extremely high considering that the majority of the participants did not have any individual characteristics that put them at risk for making a false confession. The researchers replicated tactics similar to those used in police interrogations, such as presenting false detailed accounts as “facts.” Although the setting of a lab vs a police department undoubtedly influenced the results of the study, this study confirms previous research, which suggests that memories are very malleable, and false memories can form more easily than most people realize. In addition to false memories, and as discussed earlier, research has also supported the belief that the use of some police interrogation tactics alone (excessive interrogation time, presentations of false evidence, minimization, etc.) can lead to false confessions as well (Godsey, 2017; Kassin et al., 2009; Leo, 2009). These tactics, while often intertwined with coercion, dramatically increase the risk of false confessions, with no evidence to support the claim that they are any better at getting truthful confessions than they are at getting false confessions. Furthermore, these tactics can be used on anyone, and the tactics increase the chance of a false confession even for those who do not form false memories.

### **The Association between False Confessions and Wrongful Convictions**

As can be seen, many police interrogation tactics increase the chance of a false confession. The inclusion of a confession in a case dramatically increases the chance of a conviction. This is because confessions are viewed as the strongest piece of evidence by juries (Kassin, 1997), despite all the research on the prevalence of false confessions. A confession also changes the interpretations of all other evidence collected for a case. Even when the confession contradicts physical evidence, the confession is still seen as compelling. During Dassey’s confession, he told the detectives that he and Steven cut Halbach’s throat (Demos & Ricciardi, 2015). Dassey’s confession was still used as evidence, even though part of his statements

conflicted with existing evidence, such as the fact that there was no blood on the scene of the crime. In addition to changing the way previous evidence is viewed, confessions can also directly change other pieces of evidence: Alibis may doubt their own memory and take their statement back. Confessions may cause witnesses to suddenly come forward and say they saw the suspect at the scene of the crime, even if they were not confident in this belief prior to the confession. Forensics can even change as a result of the scientist's bias (Godsey, 2017). For instance, upon hearing that a suspect confessed to the crime, the scientist may interpret fingerprint evidence as being a match when they would not have come to the same conclusion otherwise. Because confessions change evidence and the way evidence is viewed, the majority of cases which involve a confession lead to a conviction.

Even suspects who plead not guilty to a jury are still extremely likely to be convicted if they had previously made a false confession. In fact, research suggests that 73-81% of these suspects are ultimately convicted (Appleby et al., 2011). However, 97% of cases involving federal criminal charges do not even make it to a jury (Rakoff, 2014). Suspects are told to plead guilty because the majority of confessions result in convictions (Rakoff, 2014). In addition to false confessions increasing the risk of wrongful convictions, a large portion of wrongful convictions are the result of false confessions. According to the Innocence Project website, more than 25% of those exonerated by DNA evidence made a false confession or incriminating statement ("False Confessions or Admissions," 2011). Although police interrogation tactics are not the only cause of false confessions, police-induced false confessions are a leading cause of wrongful convictions ("Facts and Figures," 2014). The problem of wrongful convictions is very widespread. Wrongful convictions impact everyone's lives, even those who are not directly involved.

### **The Impact of Wrongful Convictions Within the Quad Cities**

The two main reasons that wrongful convictions are a problem are (1) they put innocent people in prison, and (2) they leave real perpetrators on the street. Wrongful convictions affect all of our lives. Many people are able to distance themselves from the issue of wrongful convictions because they think that it simply does not happen within their own community. This is not the case. As discussed earlier, anyone can fall victim to the manipulative methods perpetuated by the criminal justice system – even the local Quad Cities police contribute to this ongoing problem, regardless of their original intentions. Although there are certain risk factors that make someone more susceptible to false confessions, no one is immune.

Dorothy Varallo-Speckeen was 22 years old and living in Moline, Illinois when she made a false confession that resulted in her being charged with a Class X felony. She had no criminal record and had gone to the police department voluntarily in order to help solve a child abuse case. The investigation was conducted to determine who had broken the legs of Brylee, Jami Kepple's 15-month old daughter. Varallo-Speckeen and her girlfriend, Jennifer Schafer, had been babysitting Brylee the day before Trinity East Hospital in Moline confirmed that Brylee's legs had been broken (Johnson, 2017; Varallo, 2017).

Brad Hessell, Kepple's cousin, had brought Kepple's children to Varallo-Speckeen and Schafer in the morning, and Hessell told them to give Brylee Tylenol as she had not been feeling well. Schafer stated that she was the only one to change the baby's diaper, and when Schafer picked Brylee up, Brylee was fussy. The various interviews contained much information that should have redirected the police. Nevertheless, Detective O'Brien of the Moline Police Department developed a theme: Varallo-Speckeen was guilty of child abuse, and she had broken Brylee's legs while changing her diaper. As far as repetition, Detective O'Brien claimed Varallo-

Speckeen either broke Brylee's legs or knew what had happened to Brylee 36 times during a two-hour interrogation (Johnson, 2017).

Detective O'Brien used tactics that mirror the Reid Technique in order to get a confession out of Varallo-Speckeen. Detective O'Brien talked over Varallo-Speckeen, and Detective O'Brien pushed her theory despite denials from Varallo-Speckeen. At one point, Detective O'Brien stated, "I'm not trying to point fingers, but I know for a fact that the injury occurred during the time when you guys were watching Brylee" (Johnson, 2017). There was no clear evidence that the injury actually occurred at this time, but due to the misclassification error, Detective O'Brien was convinced that Varallo-Speckeen must be guilty. Detective O'Brien continued to claim there was evidence for things when none existed. For example, she claimed Varallo-Speckeen was the only one who had been alone with Brylee. Finally, Detective O'Brien presented two choices for how Varallo-Speckeen could have been involved in the crime:

Now, do I think it was on purpose? Absolutely not. I don't think that you guys, or most people, are the type of person who intentionally hurt a baby. I think that type of thing would be an evil person who would do that – I mean if you're going to hurt a baby, you would have to be a very mean, evil person and plan that. I don't think that was the case. I think what happened was an accident. (Johnson, 2017)

The two versions of the story that Detective O'Brien found plausible were either that Varallo-Speckeen was a "very mean, evil person" or that Varallo-Speckeen accidentally broke Brylee's legs.

Varallo-Speckeen eventually confessed. Detective O'Brien asked, "Did you cause the injury?" and Varallo-Speckeen replied, "I assume so, since I seem to be the only one around her when it happened" (Johnson, 2017). After multiple times of Detective O'Brien asking about the

cause of Brylee's broken legs, Varallo-Speckeen finally responded, "I think it was because I was changing her diaper" (Johnson, 2017). Varallo-Speckeen told the detective what she wanted to hear so that the interrogation would be over with (Johnson, 2017). The original charge in 2013 stated that Varallo-Speckeen "twisted and bent" Brylee's legs, which resulted in the legs breaking (Warmke, 2015). The verbiage the police department used was clearly misleading when compared to Varallo-Speckeen's actual confession. Varallo-Speckeen was convicted after pleading guilty to a misdemeanor child battery in 2015 (Warmke, 2015). She plead the misdemeanor in order to avoid a worse punishment (Johnson, 2017).

Varallo-Speckeen's police-induced false confession affected several aspects of her life. The important people in her life stuck around, but she reported losing a lot of friends due to the stigma of the charge. Even after her innocence was advertised, people's opinions were unaffected – they had made up their mind about her guilt, and they believed that she was only denying having committed the crime due to all of the negative feedback she got from her confession. People on social media began to talk about her as well:

There would be people who would message me and tell me I'm a terrible person because I did this. People I used to know as a kid would say, "I can't believe this person I know did this." People I went to school with would talk to each other on public forums where I could see it... A few actually messaged me and confronted me about it. (D. Varallo-Speckeen, personal communication, January 12, 2018)

When Varallo-Speckeen would try to speak up for herself, people would assert that she was lying. This experience also changed how difficult it was for Varallo-Speckeen to get a job. Background checks showed that she had a felony pending. Most employers did not want to put faith in her (D. Varallo-Speckeen, personal communication, January 12, 2018).

Many people suggest recording interrogations in order to minimize misconduct among detectives, but this on its own is not enough to combat police-induced false confessions and wrongful convictions. Police need to start being held responsible for their actions. Good intentions are not enough. When people actually take the time to watch what is happening behind these doors, many are surprised that police can get away with these actions. There needs to be more accountability for the damage done to these innocent people's lives. As explained earlier, false confessions and wrongful convictions can happen to anyone. Varallo-Speckeen is not the only person within the Quad Cities whose life has been affected by wrongful convictions.

In addition to the innocent suspects and their loved ones, the community as a whole pays a price for wrongful convictions. Because Varallo-Speckeen was convicted in the child abuse case, the perpetrator was able to remain on the streets, meaning that vulnerable children, including Brylee, were at an increased risk of abuse. This line of thought applies to other wrongful conviction cases as well. When the misclassification error occurs, detectives neglect looking into potential leads. The result is that abusers, murderers, and other criminals can repeat their crimes, which puts all of us in danger. Furthermore, if we consider the prevalence of exonerations in the US (The National Registry of Exonerations, 2018), there has likely been one or two more innocent people exonerated in the greater Quad Cities area since Varallo-Speckeen's conviction. This number does not even account for the wrongful convictions that are not overturned. Although this problem seems daunting, there are changes that could be implemented to lessen the chance of wrongful convictions.

### **Changing the Criminal Justice System**

The limited research on the accuracy of the Reid Technique shows an unfavorable association between the Reid Technique and false confessions. A recent meta-analysis compared

accusatorial methods (which researchers defined as detectives using control and confrontation, the Reid Technique listed as the primary example) to information-gathering methods (in which the detective's goal is to build rapport and gather information rather than obtain a confession). The researchers found that information-gathering methods produced a larger frequency of true confessions while also reducing the frequency of false confessions when compared with accusatorial methods like the Reid Technique (Kelly et al., 2014). Another meta-analytic review came to the same conclusion (Meissner et al., 2014). These findings suggest that the most favorable option may be to eliminate the use of the Reid Technique and begin to train police in other interrogation methods. One example of an information-gathering method is the UK's PEACE Model. This model follows a five-step approach, where the goal is for the detective to get the suspect's side of the story without presuming guilt (Johnson, 2017). According to Detective Andy Griffiths of the Sussex Police Department, their detectives are not allowed to lie, coerce, or minimize – the detectives simply get as much information as possible and look for inconsistencies in the suspect's story. The detectives who use the PEACE Model ignore deception cues, because stress does not necessarily mean that the suspect is lying (Starr, 2013). This contrasts the Reid Technique, where the detectives are encouraged to look for deception cues and lie or minimize when it could help obtain the confession. Information-gathering methods of interrogation are the best way to maximize true confessions and minimize false confessions, but most of the research has been published within the past few years. It will likely take many more years before more law enforcements and governments implement policy change based on the current data of police-induced false confessions. As research continues to be conducted, it would be to the public's advantage if police departments began regulating police practices, including limiting what detectives are allowed to say to suspects, recording all



interrogations, holding formal training for detectives on the misclassification error, not allowing suspects to be convicted based solely on a confession, and giving special attention to cases involving people who are particularly vulnerable to making a false confession. In order for the environment of police departments to change, there should also be a different method for determining budgets and statuses of the detectives in the department.

Police departments should have more regulation on what detectives can say to suspects. One regulation that would help to reduce police-induced false confessions is if detectives were not allowed to lie to suspects about evidence. Many people do not realize that detectives can tell suspects whatever they want to during an investigation, and it is *legal* to do so (Kassin, 2008; Leo, 2009; Starr, 2013; TED, 2016). The idea behind allowing this tactic is that a guilty person will confess to a crime if they believe all the evidence points towards them. The detective might say something like, “We have your DNA at the scene of the crime. There is no doubt in our minds about whether you committed the crime, and the jury will find you guilty if you take this to trial.” However, lies about how much proof the detectives have against the suspect can cause an innocent person to confess to crimes as well. The suspect may believe that they will be convicted regardless of whether they say they are innocent. Even if the suspect knows detectives can lie about evidence, they might confess to the crime anyway due to a desire to avoid longer sentencing. (TED, 2016). In addition, detectives should not be allowed to share information about the crime scene with suspects if this information is unknown to the public. In *Making a Murderer*, the detectives told Dassey details about how Halbach died when no one would have any way of knowing this unless they were involved in the crime (Demos & Ricciardi, 2015). Sharing confidential information has implications on wrongful convictions because when an innocent suspect confesses to a crime in detail, most people will probably not question where this

information first came from (the police). Professor Lawrence White, a confession expert, emphasizes this point throughout *Making a Murderer*:

It's very important to take a look at the record of the interrogation to see who mentions particular facts first. Do they come from Brendan without any help from the police, or do they in fact first come from the police? And there are several occasions in these interrogations where apparently crucial bits of information are mentioned first by the police and not by Brendan Dassey. (Demos & Ricciardi, 2015, 51:56)

Furthermore, detectives should not be able to make shaping statements or ask leading questions. Similar to sharing confidential information with suspects, leading the suspect to a certain answer makes it unclear whether the suspect actually recalls something happening or whether they are merely repeating what they were told. This happened several times throughout Dassey's interrogation. After emphasizing the importance of honesty, Detective Wiegert asked Dassey questions like, "You went inside, didn't you?" and "You went in the trailer?" (Demos & Ricciardi, 2015, 51:41). Dassey agreed, but this was likely due to his desire to appeal to what the detectives wanted to hear.

In addition to regulations on what detectives are allowed to say to suspects, all interrogations should be recorded. Many police departments already record interrogations. However, it is not a requirement, and the majority of interrogations for false confession cases are not completely documented (Leo, 2009). Even in cases where interrogations are recorded, many detectives currently go unpunished when coercive tactics are used because these tactics are currently legal. However, even if new policies are instituted, it is likely that detectives will still feel protected. For this reason, there needs to be consequences for the detectives who violate regulations. Furthermore, recordings of interrogations could also be used as a learning tool.

Detectives may not recognize how their behaviors and word choices come off, so requiring them to watch themselves regularly could improve the way in which they interact with suspects.

Ideally, this learning tool would be implemented during training programs before detectives even have the chance to come in contact with sensitive cases.

Education can be a very powerful tool, and formal training for detectives on the prevalence of the misclassification error and ways to combat this bias could also help to lessen the number of false confessions detectives obtain (Godsey, 2017). Varallo-Speckeen says if she could ask Detective O'Brien anything, she would want to know, "Why? Why didn't you ask more questions? Why didn't you look in other places? Why did you pick the path you did? I would want to know her thought process about the whole thing" (D. Varallo-Speckeen, personal communication, January 12, 2018). It is likely that law officials may be unwilling to admit to the prevalence of misguided intentions within their department. However, if police departments were required to educate their detectives on the type of tunnel vision created by the misclassification error, there would theoretically be no change in the amount of true confessions and a decrease in false confessions. Part of this education process could also be self-reflection and making detectives think through the reasons for their choices.

Not being able to convict solely on a confession would also help to minimize wrongful conviction rates. Even though confessions are seen as the golden standard for evidence, the data on false confessions suggests they are not reliable, especially when the Reid Technique is used (Appleby et al., 2011; Godsey, 2017; Meissner et al., 2014). Although this idea is more controversial than the previous recommendations suggested (as there may be some cases where other evidence is simply not possible), police departments should at least question a confession when it conflicts with other evidence. Dassey's story did not fit with the evidence at the crime

scene. He described blood and cutting Halbach's throat when there was actually no blood on the scene of the crime – yet his confession was still accepted because the detectives were able to lead him to correctly state how the victim died (getting shot in the head) (Demos & Ricciardi, 2015).

Although everyone is susceptible to police-induced false confessions, there should still be special attention given to cases involving people who are at an increased risk for false confessions. The fact that the detectives had to lead Dassey to the answer of how the victim died should be an obvious red flag that Dassey was likely guessing at what the detectives wanted to hear. This protection for vulnerable suspects would help to ensure that investigators are not leading or manipulating the suspect into confessing. Eventually, upon adoption of an information-gathering interrogation approach, the chance of false confessions to even the most vulnerable groups would significantly decrease due to the fact that the suspect would be asked to do most of the talking.

There should also be a different method for determining the budgets for the department and the status of the detectives. Currently, most detectives are evaluated at least partially on how many of their cases result in a conviction (Godsey, 2017). A better method of evaluation would be to consider detectives' interrogation tactics and the leads they investigate. Putting so much glory into convictions alone is dangerous because this method of evaluation does not take into account whether the convictions had much supporting evidence.

Additional research is needed on which specific police interrogation tactics are best at increasing the rate of true confessions while decreasing false confessions. The validity of interrogation tactics is extremely hard to assess, and new strategies will more than likely need to be developed. Ideally an information-gathering method supported by adequate training would replace the Reid Technique and its inherent deficiencies. In the meantime, there needs to be more

regulations and restrictions on the specific tactics described above. Some states have begun implementing policies that make it easier for the wrongfully convicted to be exonerated (“Facts and Figures,” 2014). However, there needs to be a larger focus on stopping the problem before it happens.

### **Conclusion**

Reformation of current police interrogation tactics is necessary because these methods, while good at getting criminals to confess to crimes, unnecessarily increase the risk of wrongful convictions by false confessions. Although the improvements in the police department and criminal justice system are vital in this process, there are also other steps that can be taken to protect individuals in the current society in which we live. One of the most important things that can be done is education. Specifically, there needs to be more education about our rights and the overall prevalence of wrongful convictions by police-induced false confessions.

Dorothy Varallo-Speckeen says that one of the most important things that can be done is education about what rights we have and knowing that we can ask questions back when questioned by the police (D. Varallo-Speckeen, personal communication, January 12, 2018). Investigators estimate that 81% of suspects waive their Miranda Rights during interrogation (Kassin et al., 2007). Although detectives are required to list the Miranda Rights before an interrogation, the confrontational way detectives communicate with suspects often suggests that non-cooperation is not truly a choice. Youth are at further risk of being unaware that they do not have to answer questions and that they have the right to a lawyer – in fact, over 90% of juveniles waive their Miranda Rights (Kassin, 2008). One possible solution could be to implement policies which require schools to educate their students on what rights the students have, and what police can and cannot do during a confrontation. If we begin to spread awareness around the

community about our Miranda Rights, the rate of wrongful convictions by police-induced false confessions will inevitably drop.

In order for this information to have the most impact, it is essential that we also find ways to educate the public on the prevalence of wrongful convictions by police-induced false confessions. When people watch documentaries like *Making a Murderer*, they often think of false confessions and wrongful convictions as being something that only happens on TV. When people read about experiences like Dorothy Varallo-Speckeen's, they oftentimes believe this type of situation is an outlier, and police-induced false confessions and wrongful convictions just do not happen in their community. Having the awareness that false confessions and wrongful convictions are things that could happen to anyone is important, because it will likely make us more conscious of our responses if we ever do find ourselves in this type of situation.

In conclusion, police may be trying to protect their community, but this does not justify coercive behaviors. Varallo-Speckeen summed up her views:

I used to be very, 'They're [the police] the good guys. Be completely honest and open with them, and they'll help you.' And now I'm more, 'Why do you want to know?'... It's hard to tell the bad guys from the good guys because they're not really bad guys. They do their job in a bad way... [and] the technique they use is faulty. (D. Varallo-Speckeen, personal communication, January 12, 2018)

Good intentions do more harm than realized. It is time the criminal justice system considers more reliable methods for convicting guilty people while protecting the innocent.

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