



What Makes Criminal Suspects Give a False Confession?

By Liliana Segura, AlterNet

Posted on October 2, 2007, Printed on October 7, 2007

<http://www.alternet.org/story/64113/>

When 16-year old Kharey Wise entered the Central Park Police Precinct at 102nd St on April 20, 1989, he didn't realize what he was walking into. It was the day after one of the most grisly crimes in official New York memory-the brutal sexual assault of a woman who would become known as the Central Park Jogger-and Wise had been asked to come in along with other black and Latino youths who had allegedly been in the park the night before. Wise was taken to the scene of the crime and shown graphic pictures of the woman's injuries, which included a fractured skull. Eventually, his visit to the police station would lead to an interrogation and, after nine hours of questioning, a videotaped confession that was confusing, convoluted, and chilling.

"Oh man, blood was scattered all over the place. I couldn't look at it no more," Wise told his interrogators. "...We went to the park for trouble and got trouble, a lot of trouble. That's what they wanted and I guess that's what I wanted. When I was doing it, that's what I wanted too. I can't apologize because it's too late. Now we got to pay up for what we did."

The confession was as good as a conviction. By the time it was shown in court, the jury, the city, and the country were convinced Wise and his four co-defendants-who had also confessed-were guilty as sin. But at the trial a problem arose. Despite his taped confession, Kharey Wise now insisted he was innocent. His confession, he said, had been forced out of him by the police.

A few days after Thanksgiving 1990, a dramatic exchange took place on the stand between the prosecutor and Wise. The *New York Times* ran it:

"Did the police tell you to say, "It was my first rape?" [prosecutor Elizabeth Lederer] said, her arms folded tightly around her waist.

"Yes," he said.

"Did they ever tell you to say you had never done it before and would never do it again?"

"Yes."

"Did they tell you to say, "We went to the park for trouble and that's what we got?"

"Yes," he said.

"Did the police make you say 'We got to pay for what we did?'"

"Yes."

"Did they make you demonstrate how she was beaten and raped?"

"Yes."

"How she was punched?"

"Probably."

With that answer, Ms. Lederer shot back: "The police never told you any of those things, did they?"

"I just wanted to go home," he replied.

The jury was not convinced. Unlike his co-defendants, Wise was sent to an adult prison, where he spent 11-and-a-half years behind bars. Then, in 2002, following a confession by another convict (and a conclusive DNA match), he and the other young men - now known as the Central Park Five - were exonerated

The exoneration was met with the outrage and skepticism of many who could not believe that a group of men who had given confessions could possibly have been innocent-exculpatory evidence be damned. As a reporter for the *Village Voice* wrote at the time: "the acceptance of their guilt appears so deeply embedded in the public consciousness that even Matias Reyes's confession and DNA match aren't enough to quell the murmuring of some pundits and naysayers." Not to mention the NYPD, which released a report denying any mistakes were made and proposing new theories as to how the teenagers had acted in concert with Reyes.

The Central Park Jogger case may have been exceptional in its notoriety-Donald Trump took out a full-page ad in the *Times* calling for the reinstatement of the state death penalty for the defendants-but its outcome was disturbingly revealing with regard to false confessions. In a court of law, whether written or captured on tape, defendant confessions are so damning, they can easily overpower any other evidence. According to a 1999 study on false confessions written by Richard P. Conti and published in the *Journal of Credibility Assessment and Witness Psychology*, "the introduction of a confession makes the other aspects of a trial in court superfluous."

For suspects who provide false confessions, this realization comes far too late.

But seriously, who gives a false confession?

As it turns out, plenty of people.

Criminal justice history is littered with tales of false confessions. Among the more sensational are the famous kidnapping and murder of aviator Charles Lindbergh's baby in 1932-which prompted more than 200 people to come forward and "confess" to the crime-and, a decade and a half later, the gruesome killing of a young actress who would be nicknamed the "Black Dahlia." Thirty people confessed to that murder.

Most false confessions don't ride on that kind of publicity-although the past few decades have brought an alarming number of high-profile exonerations, casting scrutiny on the causes of wrongful convictions. Statistics on the topic are hard to come by, but the Innocence Project estimates that of the 205 exonerations that have come from DNA evidence alone, 25 percent of the defendants confessed. This makes false confessions one of the leading factors behind wrongful convictions, second only to witness misidentification. The typical false confession comes from an anonymous suspect, outside the public eye, in a setting cloaked in darkness: the police interrogation room.

Christopher Ochoa was 22 years old when he was brought in for questioning by Austin, Texas police for the rape and murder of a woman during a robbery at a Pizza Hut not far from one where he worked. The year was 1988. "It started on a Friday morning," he recalls. It was 8:00 am and they were asking him questions about a burglary that had occurred nearby. "A big detective walks in and he starts staring at me up and down. He just looks at me, stares at me, and he bangs his fist on the table. He's, you know, strutting, cocky... And I asked him, because I was curious, if this had to do with the robbery of the Pizza Hut. I was already a suspect but they lied to me, they said they wanted to question me about another crime." When Ochoa raised the question, he was asked, pointedly, "Why are you asking about that?"

What followed was a weekend of psychological torture; an endless and belligerent game of good cop/bad cop that would leave him exhausted, terrified, and almost completely broken down. "He starts yelling at me, 'if you know something and aren't telling me, I can charge you with capital murder.'" It was the first of many death penalty threats Ochoa would receive at the station. He was shown a picture of a death row cell and told that if he didn't cooperate, he would spend the rest of his life there. "He grabs my arm at one point, and taps my vein and says 'this is where the needle is gonna go in if you don't cooperate and I'm gonna make sure I'm there to see it.'"

Ochoa insisted repeatedly that he didn't have any information, eventually asking for an attorney. "Only guilty people ask for attorneys," he was told. "I took a polygraph test which I failed-or they said I failed," he says, chuckling. The longer they interrogated him, the more vulnerable he became. "I felt like I was one of those sick dogs in the street that people just kick around."

"They're wearing me down and at one point they say 'the DA is ready to charge you'-and there's no DA outside the door, but-then, the kind of person I was ... I always wanted to please everybody ... and by that time I was tired ... I just wanted to go home, just wanted it to end. 'What do you want me to say?'"

By the end of the weekend, Ochoa had signed two statements implicating himself in the crime, and agreed to confess on camera. On tape, he repeatedly got the facts wrong -"they wanted me to give details I obviously didn't know"-but eventually recorded a passable confession. He then became a witness against his roommate and co-defendant, a man named Richard Danziger, who, along with Ochoa, would end up sentenced to life. In prison, Danziger was beaten so severely, he was left permanently brain damaged."

Ochoa was exonerated in 2001, with the help of the Innocence Project. He is now a

practicing attorney in Madison, Wisconsin. "I still have nightmares ... I still see the police."

Dr. Saul Kassin is a professor of psychology at John Jay College of Criminal Justice in New York and Williams College in Massachusetts, as well as a pioneer in the study of false confessions. In his view, the real story behind a false confession is almost always about police interrogation tactics. As anyone who has ever watched a cop drama might imagine, extracting a confession from a suspect is a central priority in crime solving-and police interrogators routinely use a combination of deceit, manipulation, and threats, not unlike like the ones described by Ochoa (if not as severe) to get one.

Kassin's description of the interrogation methods that result in false confessions echoes Ochoa's experience. They start with a lie. "The key feature in these cases, typically," says Kassin, "is that the suspect was hauled in and in the interrogation room [the police] insists that 'We have independent evidence of your culpability.'" For example, a suspect will be given a polygraph test and told he has failed it-regardless of the actual results-or a suspect will be told that someone saw him at the scene of the crime. "I've seen cases where the suspect was told that their fingerprints were on the murder weapon." The result is a scenario in which even an innocent person can start to mistrust his own memory. "Trusting that in fact this evidence must be real, the suspect has to reconcile this evidence with the knowledge that he has not committed a crime," explains Kassin. The longer an interrogation lasts, the more vulnerable a suspect is to having ideas implanted in their minds. "In the most extreme of these cases," says Kassin, "you can actually get a suspect to produce a false memory."

Indeed, some suspects actually end up internalizing their own guilt. "In 1985 my colleague and I identified three different categories of false confessions," Kassin says. There are "voluntary" false confessions, in which a suspect admits to a crime without any coercion from the police; there are "compliant-coercive" false confessions, in which harsh and leading questioning leads an innocent suspect to confess, and then there is a third kind: "coerced internalized false confessions." "These are the types," says Kassin, "where people come to believe they committed a crime."

Though comparatively rare-"you see them every now and then"-coerced-internalized confessions are most common among defendants who are particularly vulnerable, whether due to youth or mental impairment, or both. In some cases, individuals may feel particularly cowed in the face of authority.

Take the case of the Norfolk Four, a group of former sailors who each gave false confessions for a rape and murder in Norfolk, VA in 1997. Despite the of absence physical evidence linking them to the crime-and a DNA match to a man who has repeatedly said that he committed the crime alone-one of the men, Joseph Jesse Dick, Jr., became so convinced of his own guilt, it followed him from the interrogation room to the witness stand, where he not only pled guilty and testified against two of his co-defendants, but named an additional five accomplices and made a public apology to the victim's parents. In an interview with the *New York Times* this summer at the Keen Mountain Correctional Center in southwest Virginia, Dick said the interrogation-carried out by a Norfolk detective with a history of

extracting false confessions-had "messed up my mind." "It didn't cross my mind that I was lying," he said. "I believed what I was saying was true." Three of the four men remain in prison, serving life sentences.

Interrogations are not unlike hypnosis in that they can produce, in the words of one expert, "a trance-like state of heightened suggestibility" so that "truth and falsehood become hopelessly confused in the suspect's mind." Asked if he ever came close to believing that he'd committed the crime for which he was charged, Ochoa remarks, "actually at one time I almost did. They said well, 'maybe you blacked out, [the crime] was so bad you just blocked it out.' I didn't voice it, but I thought, 'Well maybe I don't remember.'" Snapping out of it, he says, "I thought, 'Wait a minute, I was at home asleep-what the hell am I talking about?'" Still, the thoughts occasionally haunted him in prison. "Even in jail, I was like maybe I did it."

Interrogations notwithstanding, there are plenty of additional factors that lead people to confess to crimes they didn't commit. Some people are trying to cover for someone else. Others have guilt issues; they confess in order to "expiate guilt over previous transgressions through self punishment," according to a 1985 study by Kassin. And some people, god help them, just want to be famous. But the most dangerous false confessions are those that bear a stamp of legitimacy; those that start in the hands of a police department and are handed to a state prosecutor in the name of justice.

Once upon a time there were strong legal safeguards against false confessions. Coming off of early 1900s lynch law, when black suspects were routinely beaten into confessing to crimes they didn't commit, the Supreme Court ruled in 1936 that evidence obtained through abuse and torture was inadmissible in a court of law. Subsequent cases would rule that suspects could not be interrogated for days on end (*Chambers v. Florida*) and that confessions that appeared to have been obtained through a violation of a defendant's right to due process should be investigated (*Haynes v. Washington*). According to Richard Conti, "for several years, a coerced confession that led to a conviction resulted in an automatic reversal of the conviction."

Then came *Arizona v. Fulminante* in 1991. The automatic reversals were overturned by the Supreme Court. A coerced confession was now protected by the "harmless error rule," so long as there was enough additional proof to uphold the conviction.

But by the time a confession is submitted as evidence, the prosecution's work is as good as done. In the case of Jeffrey Deskovic, who was exonerated last year in New York after serving more than 16 years in prison for the rape and murder of a classmate, there was no physical evidence linking him to the crime, no match between him and the forensic evidence found at the scene. Sixteen years old, denied food, and interrogated for hours on end, Deskovic capitulated to the police and confessed. In court, he says, "the confession trumped the DNA and the hair."

Deskovic says he never came close to believing he committed the crime, even after being told he had failed a polygraph test. (At trial, says Deskovic, the polygraphist's testimony would reveal the official name of his technique for the police: "GTC" or "Get the Confession.") But in the interrogation room, "I wasn't thinking about the long-term implications. All I was thinking about was right there and then, how can I

get out of here unharmed."

At seven and a half hours, Deskovic's interrogation could have lasted much longer. "The average police interrogation lasts an hour or two," according to Kassir. Compare that to the average length of an interrogation that leads to a false confession: 16 and a half hours. "Clearly time is a marker for a problem."

Other countries, in the UK for example, have guidelines capping the length of interrogations, but this kind of reform does not seem close at hand in the U.S. One reform that is making headway, however, is the practice of videotaping interrogations (as opposed to just the confessions alone). Kassir believes the practice could be a veritable "panacea" for false confessions, acting as a safeguard against police manipulation and, in court, "making better fact-finders out of the jury." And while police departments have resisted the reform, some who have implemented it have spoken favorably of it. Among the states that now videotape interrogations are Alaska, Illinois, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, New Mexico, Wisconsin and Washington D.C.

It may be early to determine what kind of a difference videotaped interrogations are making, although problems are not hard to imagine. (Who is to stop a police detective from simply turning off the camera?) Regardless, police interrogators still retain an enormous degree of power when it comes to manipulating suspects.

Matthew Johnson teaches a course titled *The Psychology of Interrogations and Confessions* at John Jay College of Criminal Justice. "Sometimes the interrogators imply that if [a suspect] makes the incriminating statement, they will receive some sort of favor," he says. "They can go home, or make a phone call." Even if the suspect is well aware of his innocence, "they believe if they cooperate with the police then they'll be able to go home." In Deskovic's case, "They gave me an out. And, being young, I took it."

This, in Kassir's view, is what it came down to for the Central Park Five. "To me, the Central Park Jogger case and the false confessions is really a story about interrogation," he says. "I don't believe that any of them ever internalized their own guilt. They believed they were going to go home."

After all, as Deskovic says, after hours of interrogation with no end in sight, "asserting your innocence becomes futile."

Liliana Segura is a writer and activist living in New York, and a program associate at The Nation Institute.

© 2007 Independent Media Institute. All rights reserved.

View this story online at: <http://www.alternet.org/story/64113/>