

The Psychology of Interrogations and Confessions

A Handbook

Gisli H. Gudjonsson

Institute of Psychiatry, King's College, London, UK



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The Psychology of Interrogations and Confessions

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About the Author

Gisli Gudjonsson is a Professor of Forensic Psychology at the Institute of Psychiatry, King's College, London, and Head of the Forensic Psychology Services at the Maudsley Hospital. He is a Fellow of the British Psychological Society and an Honorary Fellow of the Icelandic Psychological Society. In 2001 he was awarded an Honorary Doctorate in Medicine from the University of Iceland in recognition for his research in the field of forensic psychiatry and psychology. Gisli has published extensively in the areas of psychological vulnerability, false confession and police interviewing. He pioneered the empirical measurement of suggestibility and provided expert evaluation in a number of high profile cases, including those of the Guildford Four, the Birmingham Six, the Tottenham Three, the Cardiff Three, Jill Dando murder case, Kenneth Erskine (the 'Stockwell strangler'), Derek Bentley, the UDR Four and 'IRA funeral murders' cases (both in Northern Ireland), Henry Lee Lucas and John Wille (USA), and the Birgitte Tengs and Orderud cases (Norway). He acts as a consultant on cases both for prosecution and defence.

Gisli is the author of *The Psychology of Interrogations, Confessions and Testimony* (John Wiley & Sons, 1992), *The Gudjonsson Suggestibility Scales Manual* (Psychology Press, 1997), *Forensic Psychology: A Guide to Practice* (Routledge, 1998, jointly written with Lionel Haward), and *The Causes and Cures of Criminality* (Plenum Press, 1989, jointly written with Hans Eysenck). He is the co-editor-in-chief of *Personality and Individual Differences*.

Series Preface

The Wiley Series in the Psychology of Crime, Policing and Law publishes single author and edited reviews of emerging areas of contemporary research. The purpose of this series is not merely to present research findings in a clear and readable form, but also to bring out their implications for both practice and policy. The series will be useful not only to psychologists, but also to all those concerned with crime detection and prevention, policing and the judicial process.

The first book in this series was *The Psychology of Interrogations, Confessions and Testimony* by Gisli Gudjonsson, published in 1992. This seminal work was recognized quickly as a modern classic of the forensic psychology literature, translated into a number of foreign languages and frequently cited, in both learned papers and the courts of law. As the title implied, the book dealt broadly with the issues surrounding the interrogation of both witnesses and suspects and the real dangers of false confession. Professor Gudjonsson's new book, *The Psychology of Interrogations and Confessions: A Handbook* deals specifically with the area which is now synonymous with his name; it summarizes much new research and describes many cases of disputed or false confessions with which he has been associated.

Much of the new research has involved the Gudjonsson Suggestibility Scales (GSSs), a measure of suggestibility and compliance, which can be administered to persons where the issue of false confession arises. Equally importantly, expert testimony from Professor Gudjonsson, based on the results of these tests, his observations of the suspect's behaviour and the circumstances leading up to a confession have been admitted as evidence in high-profile criminal cases in the United Kingdom, the United States and continental Europe. The admission of such evidence in the English courts is a major achievement for forensic psychology in general and Professor Gudjonsson in particular. For a long time, the courts have clung to the judgment, enunciated in *R. v. Turner* (1975), that implied that the courts had no reason to listen to expert testimony from psychologists or psychiatrists on such matters as these were well within the common experience of jury members. It was only when judges were confronted with unmistakable instances of apparently normal people who, when confined to a police station for questioning for just a few hours, could confess fulsomely to crimes they could not have committed, that the united front against such expert evidence began to bend and crack. In the process, miscarriages of justice, some

of them dating back decades, were finally redressed, thanks in major part to the insights of Professor Gudjonsson.

Professor Gudjonsson's book is divided into four sections. Part I summarizes much research and theory on interrogation and confession and notably in a chapter co-authored with John Pearse, an experienced police officer, illustrates how far the British police have come in their recognition of the impact of oppressive interviewing practices on false and misleading confessions. Part II summarizes much work on the GSS, which has been widely taken up by researchers in several countries, and summarizes the legal position on the admissibility of confession evidence in Britain and the United States. Part III covers appeal court cases in the United Kingdom and reveals an impressive readiness on the part of the courts in recent years to listen to new psychological evidence and to attempt to redress in part the grievances of the falsely convicted. Part IV follows the judicial trail to the United States, Canada and Norway and uncovers striking parallels between the interrogation processes leading to false confessions in the UK and those perpetrated elsewhere. However, there appears to be a disturbing lack of readiness on the part of many of these judiciaries to address these issues and provide legal remedies.

The Psychology of Interrogations and Confessions: A Handbook will be invaluable to all psychologists who work with offenders and the courts and provides an object lesson in how psychologists, through their writings and research, can have a real and profound influence on public policy. It will also be of interest to lawyers and lay persons, who will find, in the striking case material and accessible descriptions of research, reason enough as to how our judicial system can err.

GRAHAM DAVIES
University of Leicester

March 2002

Preface

The Psychology of Interrogations, Confessions and Testimony was published in 1992 and has been reprinted on several occasions. It was extensively reviewed in the legal, psychological, psychiatric, and medical literature. Its publication brought the issue of false confessions from a scientific perspective to the attention of the legal, psychological and psychiatric professions. It provided a much-needed comprehensive and authoritative text for practitioners, researchers and academics. The book had a major impact in Britain and abroad, which can be seen from numerous legal judgments.

Reviewers' comments on the original book provided invaluable information about how the book might be improved and I have taken this seriously into consideration when writing the current book. Ronald Fisher, in *Contemporary Psychology*, pointed out that my attempt at completeness on occasions led me to describe cases and introduce material that was not central to the main focus of the book. Some other reviewers expressed similar views and suggested that I focus more exclusively on disputed confessions, and provide a more extensive analysis of how expert opinion in this area has affected the judicial process. This is what I have attempted to do in the current book. In addition, since the publication of the original book, the number of cases of disputed confessions that I have assessed has more than doubled and I have testified in well over 100 criminal cases where confession evidence was disputed, including many high profile murder cases in the appellate courts in Britain and abroad. All the important cases are reviewed in this book and the psychological contribution and legal implications discussed.

There has been increasing recognition in recent years that false confessions occur and no legal system should ignore the risk of false confession. In order to prevent future miscarriages of justice, complacency, lack of open-mindedness, ignorance, unwillingness to accept mistakes and judicial cover-up must be replaced by a more positive approach to a problem that will not go away unless we actively confront it. There are various steps that can be taken to reduce the risk of false confessions and prevent miscarriages of justice. These steps, including judicial, educational and psychological means, are equally applicable to legal systems of Britain, USA, Australia and on the continent of Europe.

When I planned this book it was originally commissioned by Wiley as a second edition of my previous book. As I began to write however, it became evident that the field had expanded dramatically and this development has continued as the

book has developed. As a result, it is largely a new book rather than a second edition of the previous one. Some themes have had to be omitted from the current book to accommodate new material. This includes some of the basic principles and theory of interviewing, child witnesses, psychological techniques for enhancing memory retrieval and evaluating testimony and documents. There are now other books available that make these chapters unnecessary and these will be indicated in the text, as appropriate.

Accompanying new and important court case material, and important legal changes since the original book, there has been considerably more research into police interrogation tactics, psychological vulnerabilities and false confessions. All the material that remains from the original book has been re-written and up-dated to accommodate these new findings. The current book is larger and more substantial than the original and the focus more international.

GISLI H. GUDJONSSON

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I am grateful to Professor Graham Davies, the Series Editor, and to my wife, Julia, for their continued encouragement and support throughout my writing this book. They both read and commented on drafts of the individual chapters. Other persons who provided helpful comments on one or more of the individual draft chapters are Professor Ursula Bentele, Sir Louis Blom-Cooper, Ian Donaldson QC, Richard Joselson, Denny LeBoeuf, Professor Richard Leo, Dr James MacKeith, Paula Montonye, Lorca Morello, Dr John Pearse, Susan Rutter, John Wagstaff and Dr Susan Young. I am grateful to Sarah Medford for her proofreading of the draft manuscript. Thanks also goes to the people who consented to my writing up their cases. Lastly, I am indebted to John Wiley & Sons for allowing me to produce a manuscript that is longer than originally contracted for, so that detailed case illustrations and important recent legal judgments could be provided.

Introduction

On a Saturday morning in the early part of 1987 a 17-year-old youth was arrested and taken to a police station for questioning. A few hours later he had confessed in great detail as to how he had sexually molested and then murdered two elderly women before leaving their house. The following day the youth confessed again to the murders, in the presence of a solicitor. In spite of the lack of forensic evidence to link the youth to the murders, the case against the youth was potentially strong because (a) eye witnesses who knew the youth by sight had placed him near the scene and (b) during interrogation the youth had apparently given the police detailed and specific information about the crime, which the police believed could only have been known by the murderer. On the strength of the available evidence the youth's case was referred to the Crown Court, during which time he was remanded in custody. The case had all the hallmarks of a successful crime detection, which would result in a conviction for two murders and sexual molestation.

Whilst on remand in prison the youth consistently told his solicitor and his family that he was innocent of the crimes he had been charged with. He claimed that his self-incriminating confession was due to persuasive police questioning. Matters had been made worse for the youth by the fact that during early detention in prison he had confessed to the murders to prison officers and to a fellow inmate. The youth clearly had been interviewed quite extensively and persuasively by the police officers, but he was a young man of reasonable education and without any obvious mental illness or handicap. On the face of it, the youth had confessed due to skilful interrogation carried out by experienced police officers who had reason to believe that he had committed the crimes. The murder enquiry was thus successfully conducted except for one important fact. The youth was innocent of the crimes with which he had been charged. While the youth was in prison on remand, the real murderer committed another very serious offence before being apprehended.

This brief case history, which will be discussed in more detail in Chapter 9, is one of many that are used in this book to illustrate some of the processes and mechanisms involved in producing erroneous testimony, including a false confession.

The terms 'interview' and 'interrogation', as applied to the police investigative process, imply some form of questioning, whether of a witness to a crime,

a victim, a complainant or a suspect. Both are essentially a way of gathering information for use in further enquiries and perhaps judicial purposes. The term interrogation is more commonly used in the literature, and in police practice, to refer to the questioning of criminal suspects, whereas witnesses and victims are 'interviewed' (Rabon, 1992). Such a distinction is, however, quite an arbitrary one, and the term 'investigative interviewing' has been proposed to cover both the interviewing of witnesses and suspects in England. This term has now been incorporated into police training and its evaluation (Clarke & Milne, 2001; Williamson, 1994).

The purpose of the book is to examine in detail the various aspects of investigative interviewing and to highlight the factors that influence the *accuracy* and *completeness* of the information collected. The emphasis is on the application of psychological knowledge and principles to investigative interviewing and confessions. The major issue addressed is to what extent psychological knowledge and principles can assist the police, psychologists, social workers, probation officers and the legal profession, in the gathering and evaluation of confession evidence.

The book shows that during the past 20 years or so there have been major advances in psychological theory, research relevant to interrogations and confessions, the law pertaining to investigative interviewing and the admissibility of confession evidence, police training and the contribution of expert psychological and psychiatric testimony to criminal court proceedings. My previous book, *The Psychology of Interrogations, Confessions, and Testimony* (Gudjonsson, 1992a), provided a detailed discussion of scientific advances, and their implications, up to 1992. Since then, further psychological and legal developments have taken place and these are comprehensively discussed in this book. As far as children's testimony is concerned, which was discussed at some length in my previous book, the recently edited book by Westcott, Davies and Bull (2002) gives a comprehensive coverage of the recent developments in the area.

In view of the extensive amount of material presented in this book, which comprises 23 individual chapters, it is separated into four main parts. In Part I, entitled 'Interrogations and Confessions', the theoretical, research and practical aspects of interrogation and confessions are reviewed. There are nine chapters in this section of the book. The first four focus on interrogation, its contexts and the tactics used by the police in the USA and Britain. Empirical research findings are presented into interrogation tactics and the psychological vulnerability of detainees. Two chapters enquire into the reasons why suspects confess to crimes they have committed. Both theoretical perspectives and empirical evidence are presented. This part of the book concludes with three chapters where the focus is on miscarriages of justice and false confessions. Relevant research and theoretical aspects of false confessions are discussed and case examples are presented of different types of false confession.

One of the chapters in Part I, 'The identification and measurement of "oppressive" police interviewing tactics in Britain', is co-authored with Dr John Pearse, a senior police officer at New Scotland Yard, with whom I have worked jointly on cases and conducted extensive research over the past 10 years.

Part II, 'Legal and Psychological Aspects', consists of six chapters. It commences with a detailed discussion of the English and American confession law. Differences and similarities between the two legal systems and legal practice are highlighted. The chapter on the American law is co-authored with a New York attorney, Lorca Morello. After discussing the legal issues and practice there is a chapter on psychological assessment. The concepts of interrogative suggestibility, compliance and acquiescence, which have become increasingly important legally in the context of disputed confessions, are discussed in detail within the context of the relevant theoretical and empirical evidence. Part II concludes with a chapter on the effects of drugs and alcohol on the reliability of testimony. In this chapter a double murder case of the false confession of a heroin addict is presented.

In Part III, 'British Court of Appeal Cases', the role of the Court of Appeal is discussed and 22 leading disputed confession cases in England and Northern Ireland are presented and the judgments evaluated. In all but one of the cases the convictions were quashed, often on the basis of fresh psychological or psychiatric testimony. In the one unsuccessful case, the House of Lords later quashed the appellant's conviction and criticized the Court of Appeal's decision to uphold the conviction. The cases demonstrate how the Court of Appeal views confession evidence and expert testimony and how its approach to such cases has developed over the past 12 years. I have carefully traced this development and will show how high court judges have become more sophisticated in the way in which they admit and rely on expert psychological and psychiatric testimony, particularly as it relates to psychological vulnerability. The legal criteria for admitting psychological evidence have broadened considerably. The courts are no longer restricted to admitting evidence where there is mental illness or learning disability. Personality disorder is now judged as a potential psychological vulnerability relevant to the reliability of confession evidence. Furthermore, personality traits, such as suggestibility, compliance and trait anxiety, when falling outside the normal range, are now regularly admitted into evidence to challenge the admissibility and the weight of confession evidence. The impact of psychological research and expert testimony on legal changes, police practice and legal judgments is a development unparalleled in the rest of the world (Gudjonsson, 2001).

The cases of the 'Guildford Four' and the 'Birmingham Six' were the first to have a great impact on the English legal system. They brought the risk of false confession to the attention of the legal establishment and the public. The chapter on these two cases was prepared jointly with my psychiatrist colleague, Dr James MacKeith. We were both commissioned as experts to work on the cases prior to their successful appeal. We review these cases and present some of our medical and psychological findings.

Part IV, 'Foreign Cases of Disputed Confessions', provides a detailed discussion of seven high profile cases from outside Britain. The cases demonstrate how different legal systems—American, Canadian, Israeli and Norwegian—approach, view and evaluate disputed confession evidence and expert testimony. As will be seen from reading these chapters, there is much to be learned from cases in different jurisdictions. The dangers of coercive interrogation

techniques, the risk of false confession and miscarriages of justice are of international importance and all judicial systems must take these seriously.

In the final chapter of the book, 'Conclusions', I draw together the main findings from the other chapters and provide a conceptual framework for future work on investigative interviewing and confessions.

This book is aimed primarily at practitioners involved with different aspects of investigative interviewing. This includes clinical psychologists and psychiatrists who have been asked by legal advocates to assist with the evaluation of the likely validity of self-incriminating statements, such as confessions. Detailed assessment techniques will be provided for this purpose, including the assessment of specific and idiosyncratic psychological states and traits. The relevant legal concepts, legal practice, Court of Appeal judgments and detailed case presentations, will be provided to assist expert witnesses in how to assess a wide range of cases of disputed confessions.

Police officers will find many parts of the book directly applicable to their investigative work. The book is not a training manual for police officers on how to interview, but it does provide police officers with a further understanding of the processes involved in producing erroneous and misleading testimony. In addition, it identifies the circumstances under which information can be collected most effectively. At a policy level, the book has major implications for police training.

Social workers and probation officers will find several of the chapters useful as they commonly have to interview and assess groups of individuals who need special care, such as persons with learning disabilities, the mentally ill, children and the sexually abused. The increased role of social workers as 'appropriate adults' during custodial interrogation in England and the criticism they have received in the past about their interviewing techniques of allegedly sexually abused children mean that this book is going to be particularly helpful for them.

The legal profession will learn from the book what kinds of contribution clinical psychologists and psychiatrists can offer to judicial proceedings. Case histories will be used to illustrate specific points throughout the book and these provide an important insight into how the judicial system deals with the problems created by disputed confessions. Many of the findings highlighted in the book provide an important insight into safeguards against false confession.

Finally, the combination of theoretical ideas, empirical findings, case histories and leading Court of Appeal judgments brings together knowledge that will also appeal to researchers and other academics. Hopefully, it will stimulate more research, both theoretical and practical, in an exciting field that is already rapidly expanding.

PART I

**INTERROGATIONS AND
CONFESSIONS**

CHAPTER 1

Interrogation Tactics and Techniques

The purpose of this chapter is to discuss the tactics and techniques advocated by practical interrogation manuals and the context in which interrogations occur. Nearly all published interrogation manuals originate in the USA (for a review see Leo, 1992, 1994). One exception is Walkley's (1987) *Police Interrogation. A Handbook for Investigators*, which was the first manual written for British police officers. It was heavily influenced by traditional American interrogation manuals and never gained national support in Britain.

In this chapter I shall discuss the nature of these techniques, their strengths and merits, and how their use can 'go wrong'. Of course, there are a large number of interrogation manuals regularly published in the USA, with each author claiming special expertise in the field and offering advice to interrogators. It would be unrealistic to try to review all of these manuals. Undoubtedly, the most influential practical manual is the one written by Inbau, Reid and Buckley (1986). This manual has just been revised, up-dated and expanded (Inbau, Reid, Buckley & Jayne, 2001). Hundreds of thousands of investigators have received the training in their technique (Inbau *et al.*, 2001). Their book has also influenced many other authors; thus the main focus of this chapter will be on this approach and its implications. Other relevant publications will be referred to at appropriate points and issues discussed.

POLICE TRAINING MANUALS

Practical interrogation manuals are generally based on the extensive experience of interrogators and offer allegedly effective techniques for breaking down suspects' resistance. The authors of these manuals argue that most criminal suspects are reluctant to confess because of the shame associated with what they have done and the fear of the legal consequences. In their view, a certain amount of pressure, deception, persuasion and manipulation is essential if the 'truth' is to be revealed. Furthermore, they view persuasive interrogation techniques as essential to police work and feel justified in using them. The degree of persuasion recommended varies in different manuals. One of the most crude and extreme forms of persuasion recommended in a modern interrogation

manual is in a book by Patrick McDonald (1993) entitled *Make 'Em Talk! Principles of Military Interrogation*, which states on the back cover:

Every military has its ways of making subjects talk and this book takes you step-by-step through the most common, effective, and notorious methods used, including those favored by the Japanese, Germans, Koreans, Vietnamese, and Iraqis.

McDonald then goes on to describe how he recommends interrogators break down resistance and denials by inducing debilitation and exhaustion:

If you have subjects under your total physical control, you can wear them down and make them easier to exploit and more compliant. One of the simplest methods to debilitate people physically is to severely limit their food intake or intermittently refuse them food altogether (p. 44).

Most other manuals (e.g. Inbau, Reid & Buckley, 1986; Inbau *et al.*, 2001; Macdonald & Michaud, 1992; Rabon, 1992, 1994; Royal & Schutte, 1976; Stubbs & Newberry, 1998; Walkley, 1987) are more psychologically sophisticated than McDonald's coercive guide to interrogators, but they rely to a varying degree on the processes of influence and persuasion. This reliance on persuasion is inevitable in view of the reluctance of many suspects to admit to their crimes or certain aspects of their crimes. There is an extensive literature on the psychology of persuasion, which demonstrates its potentially powerful influence in different contexts (Cialdini, 1993).

Leo (1994) correctly points out that persuasion in the context of interrogation is the process of convincing suspects that their best interests are served by their making a confession. In order to achieve this objective the police may engage in a range of deception strategies. These include the following.

- Police officers concealing their identity while trying to obtain a confession (e.g. pretending to be a fellow prison inmate, befriending a person under false pretences, posing as a criminal). Such undercover operations are practised in some countries, for example, in Canada, the USA, and Britain. In Britain such an undercover operation went seriously wrong in the case of the famous murder of Rachel Nickell in 1992 on Wimbledon Common, South London (Britton, 1997; Fielder, 1994; Gudjonsson & Haward, 1998; Stagg & Kessler, 1999). In Britain, undercover police officers are not allowed legally to entrap people or coerce a confession out of them. In contrast, such undercover operations are commonly used in Canada to coerce confessions out of resistant suspects and they are allowed in evidence because they fall outside the legal framework of custodial interrogation (see Chapter 22).
- During interrogation the police may misrepresent the nature or seriousness of the offence (e.g. in a murder case by lying to the suspect that the victim is still alive and may talk, or implying that the death must have been an accident or unpremeditated).
- Employing trickery is, according to Leo (1994), the most common police deception during interrogation. This typically involves presenting the suspect with false evidence of guilt (e.g. falsely claiming that a co-defendant