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## Statement of Problem

- Juveniles, as compared to adults, are less likely to understand and therefore more likely to waive their Miranda rights (Haney-Caron et al., 2018). As a result, juveniles have a greater likelihood of undergoing interrogation procedures without legal representation and protection. Interrogation techniques by law enforcement officials can produce false memories of crime involvement by individuals who are totally innocent. Innocent juveniles who develop false memories of crime involvement are at increased risk of producing an internalized false confession (Sigurdsson & Gudjonsson, 1996).

## Introduction

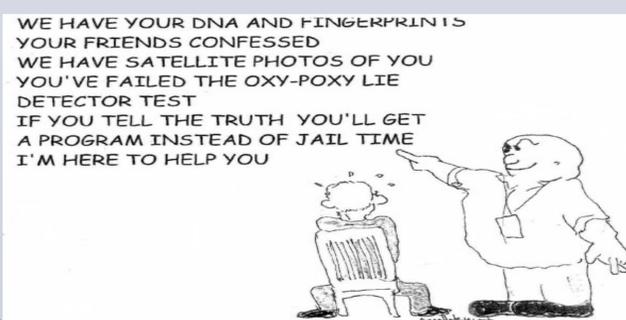
- Research (e.g., brain scans) has given evidence that an individual's frontal cortex, which is responsible for executive function, is still developing up to the age of 25 years and beyond (Haney-Caron et al., 2018).
- Juveniles, as compared to adults, act more impulsively, have greater difficulty in comprehending long term consequences, are more susceptible to memory errors, have higher susceptibility to suggestibility from authority figures, and act more emotionally and impulsively. As a result, a juvenile's ability to resist the formation of false memories of crime involvement is lower compared to adults (Haney-Caron et al., 2018).
- Of the three classifications of false confessions (voluntary, internalized, and compliant), internalized false confessions may be the most damaging to the juvenile detainee because of the internalized false belief that they were involved in the crime (Charles et al., 2014).
- As a result of the confession, further investigation of the crime may cease (e.g., we have the guilty party in custody, no need for further investigation).
- Due to the internalized belief in guilt it may be difficult, if not impossible, to overturn the confession (even in the face of contradictory evidence).
- As a result, the juvenile may be advised by counsel to plead guilty and seek a plea deal before going to trial. If a plea of guilty is accepted, it may be extremely difficult, if not impossible, to appeal in the future.
- In addition, depending on the severity of the crime, previous court involvement, and the location of the offense, the juvenile detainee could be transferred to adult criminal court and prosecuted as an adult (Gudjonsson, 2010).

## Miranda Rights

- Very few juvenile detainees have an adequate comprehension of their Miranda rights.
- By some accounts, only 20 percent of juveniles had an adequate understanding of their Miranda rights, and as a result, most waived these rights (Gudjonsson et al., 2012).
- Many juvenile detainees believed that because they were innocent, they "had nothing to hide" and therefore their innocence could be explained or would eventually come out. Only among the older or more judicially experienced juveniles was there a lower rate of waiving Miranda rights.

## Interrogation Techniques

- A common interrogation procedure used by law enforcement officials is the Reid Technique (Gudjonsson, 2010).
- The Reid Technique consists of a three-step procedure with the sole purpose of extracting a confession from an assumed guilty suspect.
- During the interrogation procedure, denial of innocence, accusatory and suggestive questions, isolation, sleep deprivation, and deception tactics are routinely used.
- Confidential details concerning the crime in question are frequently presented to the juvenile being interrogated, both intentionally and unintentionally.
- Such confidential information is presented in a suggestive manner that often makes an innocent juvenile believe that they must have committed the crime. In other words, the suggestive information aides in the formation of a false memory of crime involvement, where in actuality, no involvement has occurred.
- False memory formation often leads to an internalized false confession. In other words, the accused juvenile actually believes that he or she did something connected to the crime, when no such event or involvement has actually occurred (Gudjonsson et al., 2019).

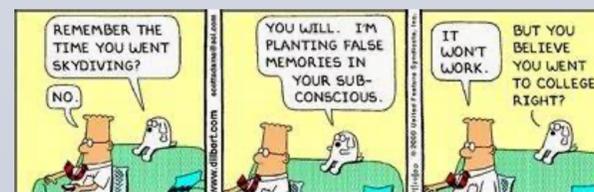


## Supportive Research

- A study conducted by Shaw and Porter (2015) supports the idea that false memories of crime involvement can be formed in subjects through suggestive interrogation techniques.
- Through the use of highly suggestive memory retrieval techniques, over 70% of participants were determined as having a detailed false memory of committing a crime that in fact they never committed.
- False memories were formed for the crimes of theft and assault with a deadly weapon.
- The study authors concluded that, in the context of high pressure and suggestive interview procedures, individuals frequently produce detailed false memories of events that never happened.

## Model and Theory

- Gudjonsson and McKeith (2014) developed the term "memory distrust syndrome" (MDS).
- Essentially, MDS is a condition in which a person may develop an extreme distrust of their personal memory of an event and become susceptible to forming memories based on the suggestions of others and other external cues.
- According to Gudjonsson (2015), the MDS model involves contextual risk factors (e.g., intense guilt assumption interrogation, isolation, sleep deprivation, high emotional state) and an enduring state of vulnerability and suggestibility.
- The effect does not need to be immediate. Over the course of time and through repeated interrogation procedures, the individual will begin to doubt his or her own memory and begin to incorporate the false suggestive information as fact.
- Another theory that could account for false memories in internalized false confessions in juveniles is the fuzzy trace theory (FTT).
- The FTT states that memory is reconstructive in nature: at least certain parts of memory are stored as semantic aspects of events known as gist traces.
- Memory is viewed as reconstructive in nature and false memories can be formed when external stimuli (e.g., suggestions by interrogators) are used to "fill in the gaps" in one's memory (Vagni et al., 2015).



## Supreme Court Rulings

- The Supreme Court ruled in *Fare v. Michael C.* that courts should take into account the "totality of circumstances test" when dealing with juveniles.
- The totality of circumstances includes, but is not limited to, the factors of mental maturity, chronological age, experience with the judicial system, time between arrest and confession, and whether officials adequately explained to the defendant their Miranda rights (Vagni et al., 2015).
- In addition, the Supreme Court rulings of *Graham v. Florida* (2010) and *Roper v. Simmons* (2005) recognized that children and juveniles have difficulty dealing with long term consequences, often lack emotional and intellectual maturity, and often have a poor understanding of the legal system. In effect, the Supreme Court has recognized a juvenile's right to be treated differently than an adult.

## Conclusion

- Internalized false confessions and the effects of MDS can be reduced when juvenile detainees do not waive their Miranda rights and have regular access to private legal counsel or other individuals independent from police interrogators.
- In addition, constructive recreational activities that are not connected to legal proceedings have been shown to reduce anxiety in juvenile detainees and have been beneficial in refocusing attention in a beneficial manner (Kassin et al., 2010).
- It is recommended that even if a juvenile does generate a possible internalized false confession (i.e., states to counsel that he or she was involved in the crime), investigation of the crime should not stop.
- If the juvenile did have involvement in the incident in question, external investigational evidence (e.g., DNA samples) should support the admission of guilt.
- However, if the additional verified outside evidence does not give support to the juvenile's confession, there is a possibility that false memories by the juvenile may have been generated by the interrogation procedures encountered.
- Finally, it is recommended that all juveniles should have counsel during interrogation proceedings.
- Such proceedings should be recorded and preferably videotaped to be later examined for verbal and nonverbal behavior by interrogators that could lead to possible false memories (Kassin et al., 2010).

## References

- Available upon request