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Future Directions

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# Chapter Four

## Finding False Confessions

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### Confession made under torture

A confession is in many ways a religious experience. At the end of the Middle Ages everywhere in Europe a new system of evidence was introduced in which torture still had a place (the following is based on Langbein, 1977). The new rules replaced divine judgement with human judgement. It was understood, however, that assessing the evidence could only be trusted to humans if they were guided by strict rules. Thus, only a few types of evidence were allowed: (i) The court could convict on the statement of no fewer than two witnesses who actually saw the crime take place. (ii) If there were fewer than two witnesses, the suspect could only be convicted if he confessed. (iii) Indirect or circumstantial evidence alone, however convincing, could not secure a conviction.

So, two witnesses or a confession could constitute full proof, but because in many cases there were no eyewitnesses, the suspect's confession played a major role. If a suspect did not confess voluntarily, a confession could be extracted by force, using torture. Torture, however, could only be used in cases of the more serious crimes – crimes that carried the death penalty or some form of maiming. The rules did not apply to less serious crimes, the *delicta levia*. In these cases the court could convict on its belief, which in turn could be based on indirect, circumstantial evidence alone, so in these cases torture was no longer used.

The seriousness of the crime was not the only condition that had to be met before torture could be used. There should be at least 'half' proof. Such proof could be a single witness statement or serious circumstantial evidence. Of course, it was understood that everyone will confess to anything under severe torture. A confession obtained under torture, therefore, should at least demonstrate the suspect's intimate knowledge of the crime. The torturer was not allowed to ask leading questions or provide the suspect with detailed knowledge. The confession made under torture should be verified as far as possible against evidence from other sources. Even then a confession made under torture was not considered valid proof. This was the case only if the confession was repeated voluntarily in court. Of course, this could hardly be voluntary; suspects knew they would be returned to the torture chamber if they changed their story in court.

In this system there was little scope for a free evaluation of the evidence by the court. That did develop over time, but only indirectly. In the case of extenuating circumstances the court could ignore the mandatory sentence by rendering a *poeno extraordinario*. This could also be rendered if there was insufficient evidence against the suspect. A *poeno extraordinario* was always less than the mandatory sentence imposed in cases of complete evidence. Thus a system of evaluation of the proof by the court for serious crimes developed in line with that which already existed for *delicta levia*. This was enhanced by the substitution in more and more jurisdictions of lay judges with professional judges, to whom adjudication was entrusted. In this manner, the confession was no longer an essential part of the evidence and torture became obsolete, so that during the nineteenth century it was abolished formally everywhere in western Europe. 'Only when confession evidence was no longer necessary to convict the guilty could European law escape its centuries of dependence on judicial torture' (Langbein, 1983: 1555–1556).

Even though torture was abolished in the Netherlands in 1798 (art. 36 of the *Staatsregeling* [State Statute]), some of the other rules did not disappear. In the present Code of Criminal Procedure the evidence of a single witness remains insufficient for a conviction (art. 341, Code of Criminal Procedure). But in the case of confessions things have changed: a suspect cannot be convicted on the basis of his or her confession alone: further evidence is required. As a result, the importance of a confession formally was reduced to the same level as any witness statement. However, in practice things are different.

Confessions are considered a holy part of proof. Even in cases where there is an abundance of other evidence, police officers tend to interrogate suspects, not just to give them the opportunity to tell their story or their version of what happened, but also to get them to confess. An example is the case of Julien C (in the Netherlands the full names of suspects are not made public), who was accused of killing eight-year-old Jesse Dingemans. On 1 December 2006 a man entered a primary school, found Jesse alone in a classroom (Jesse was just collecting something) and slit his throat. There was an abundance of evidence against Julien – for instance, he was seen hiding his clothes which

were soaked with Jesse's blood in the woods. Julien denied the killing, and accused three Eastern European men though his account was unbelievable. He was interviewed by the police during 13 lengthy interrogations. Julien was convicted by both the district court and the appellate court. He received a life sentence (Hof (Appellate Court)'s-Hertogenbosch, 26 February 2008, LJN-number BC 5105, see [www.rechtspraak.nl](http://www.rechtspraak.nl)).

If police officers feel the need to interrogate suspects like Julien in cases where there is overwhelming evidence, they surely will interrogate extensively in serious cases where the evidence against the suspect is not very strong. The police's need for a confession can as a result elicit false confessions.

In many cases it is hard to assess whether a confession is false or not. And that is the problem I want to discuss in this chapter: after a confession has been made, how do we identify a false one? Several approaches are possible: 1) assessing the psychological characteristics of the suspect; 2) assessing the characteristics of the (series of) interviews and circumstances of detention; 3) assessing the content of the confession. I shall conclude that in some cases, under some circumstances, a false confession can be distinguished from a true one. For that purpose, the content of the confession is more valuable than the other two approaches.

## Psychological characteristics

Gudjonsson proposed that some personality traits make suspects susceptible to making a false confession: low IQ, lack of confidence in one's memory, psychological disturbance, suggestibility and compliance, and other related characteristics (Gudjonsson, 2003). In a long series of studies by Gudjonsson and others it was demonstrated that suspects with these traits more often make false confessions than others (see also Horselenberg, Merckelbach & Josephs, 2003).

That does not make personality characteristics the golden tool for identifying false confession: studies of false confessions are usually experimental, where the question is whether people with certain characteristics are more or less prone to making a false confession than others. In practice, however, the question is quite different: is this particular confession false? To answer that question, personality traits are not very useful. First, the problem in using personality traits to identify false confessions is that many suspects have a low IQ anyway, and the other characteristics mentioned above also apply to them. That means that, with little exaggeration, one can say that the base rate of personality characteristics of suspects are more or less the personality characteristics that make suspects prone to confess falsely. Deviations from a strong base rate, we know, are hard to predict.

Second, individual behaviour is not just the result of personality, but depends on interaction of personality with the situation (Bem & Funder, 1978; Mischel, 1977, 1979). That means that, for instance, with a gentle form

of interrogation only impressionable suspects are susceptible to making a false confession, while a rough interrogation can make almost everybody confess almost anything. Third, even if a suspect is prone to making a false confession, he may have committed the crime and thus the confession may actually be true.

It seems fair to say that if a suspect has the personality characteristics mentioned above, knowing that does not help very much in distinguishing between true and false confessions. If, however, a suspect has the opposite characteristics – a high IQ, trust in his memory, sound faculties and is neither suggestible nor compliant – we may conclude that any confession made will not be the product of his personality. Thus, personality characteristics seem to be of some, but not great use in distinguishing between true and false confessions. However, that does not mean that they are not highly relevant to interrogations in another respect. So, police officers would be wise to interrogate carefully if they have reason to believe that a suspect has characteristics that make them susceptible to confess.

### **Situational characteristics**

Should we then conclude that the nature of the interrogation is more relevant to identifying false confessions? That depends. Let us take extreme interrogations, those conducted under torture, or situations that come close to it. These are situations, we can assume, in which almost anyone will confess. If the police create a situation in which everybody or almost everybody confesses, the confession cannot distinguish between innocence and guilt, and thus would be meaningless as evidence (Wagenaar, Van Koppen & Crombag, 1993).

In the world of the regular police in Western society these kinds of interrogation situations are presumably rare. Nevertheless, there are all kinds of situations that may bring some or many suspects to make a false confession. For instance, in The Netherlands the court can order a suspect to be held in solitary confinement if free communication will hamper the police investigation. That means that a suspect is kept in his cell 23 hours a day, is not allowed to read newspapers or watch television, or communicate with anybody except his/her attorney and is then taken out of the cell to talk to two friendly police officers. It can be expected that any suspect will be happy to talk in these circumstances. Although we do not have solid experimental studies – ethical considerations prevent such studies – it can be expected that this situation will increase the probability that suspects will make a confession. And if the probability of a making a confession increases, so does the probability of making a false confession.

In this vein there are all kinds of police methods that may increase the probability of a false confession. But, again, that is not the question. We want to establish whether a particular confession is false or not. Even under duress a suspect may make a true confession. But at the same time, if we have a

susceptible suspect who has been interrogated under circumstances that are known to increase the probability of making false confessions, there is good reason to scrutinize the confessions made, as in the following case:

### **Ceci n'est pas une confession\***

Ofshe (1989), based on a case study, suggested that in order to make a false confession, the suspect is persuaded to do two things. First, the suspect has to accept that he committed the crime, even though he does not remember doing so. Second, the suspect has to be led to believe that there is good reason that he cannot remember anything about the crime (see also Ost, Costall & Bull, 2001).

A good example of Ofshe's contentions is the Sneek balcony murder. On 9 November 2004 Dennis, his girlfriend and his best friend Ronald went to spend the afternoon with Dennis's granny, who lived in a fourth floor apartment in Sneek. They all started drinking. In the afternoon Dennis and his girlfriend went their own way, but Ronald and granny continued drinking. At 6 pm granny fell from the balcony and later died in the hospital. At that time she had a very high blood alcohol level of 0.36%.

The question is, how did she fall? That is not decided very easily. There was a single witness who cycled past the apartment building minutes earlier. He says that he saw the old woman hanging over the balcony in a very hazardous way. The cyclist, though, did not take the trouble to stop and wait to see what would happen next. There was no one else who could in any way be called an eyewitness.

But something else happened. After granny fell, Ronald rushed downstairs and knelt next to her. A police officer, by then present at the scene, heard Ronald say: 'I pushed my friend Dennis over the balcony', or words to that effect. Other witnesses more or less said the same thing. Ronald was arrested and at the police station he maintained that the person who had fallen was his friend Dennis. His blood was tested and was found to contain 0.28% of alcohol. Later that evening Ronald was told that the deceased was not Dennis but his granny.

Ronald was pretty drunk. But after he sobered up, he was interrogated; in the coming days for some 15 hours in total. During these interrogations, he made a full confession. My colleague Marko Jelicic of Maastricht University tested Ronald and concluded that he is of fairly low intelligence, makes a lot of cognitive errors and distrusts his own memory, was suffering from psychological problems at the time of the interrogations, and is suggestible and compliant. He suggested that the court have experts take a closer look at the interrogations.

I served as an expert witness in this case. Ronald had certainly confessed, but in an odd manner. I base the following on studying the case file and on the tapes of the interrogations.

\*After René Magritte, *La trahison des images*, 1928-29.

In its basic form, the interrogation went as follows. Two police officers kept on talking to Ronald to convince him that he had thrown granny over the balcony by accident. After they succeeded in that, they set about convincing Ronald that he had done it deliberately. In the third stage, they convinced Ronald that he had a motive: an argument about a library card. Ronald confessed to it all, but in a particular way. To everything he admitted to, he added a qualification. He seems highly compliant, when he says things like:

Then I hope I've got it right this time ... pffft. (interrogation 10 November 2004 at 15h 11).

I have been racking my brains about it all night. (interrogation 10 November 2004 at 15h 21).

The police officers encourage this:

*Interrogator.* You can deal with it better if you tell your story again and then again and then again.

*Ronald:* Of course, of course.  
(interrogation 10 November 2004 at 16h 12).

But at the same time Ronald is in ignorance. He says things like:

*Interrogator.* Some people saw you there, didn't they?

*Ronald:* Yes, that is possible. Pffft, we didn't fight. That is almost impossible, it was a very sociable afternoon. ... I drank a lot, though, so I don't know any more.  
(interrogation 10 November 2004 at 17h 12)

*Interrogator.* Did your attorney know you pushed granny over the railing?

*Ronald:* Uh ... no, because I myself don't know that.  
(interrogation 11 November 2004 at 12h 18)

*Interrogator.* Do you know that for sure?

*Ronald:* No, I'm not sure. I can't remember that. I am sorry, I am very sorry. Really.

*Interrogator.* So in reality, you don't know?

*Ronald:* I really don't know. I'm sorry.  
(interrogation 10 November 2004 at 18h 53)

*Ronald:* This says that I am responsible for the death of granny. But is that definite?

*Interrogator.* OK, so you aren't.

*Ronald:* Now, I really don't know.

*Interrogator.* How do you feel about it yourself?

*Ronald:* It can hardly be otherwise.

*Interrogators:* That is what we mean.  
(interrogation 14 December 2004 at 14h 42)



For Ronald the interrogation is a form of reconstruction. Together with the interrogators he tries to reconstruct what might have happened when granny fell. The reconstruction is aided by some misleading techniques that seem obvious to anyone watching the videotapes of the interrogations, but seemingly not to the interrogators and Ronald.

First, Ronald is encouraged to guess all the time. The interrogators even use phrases like: 'You're getting warm. You are not completely there, but you are getting warm' (interrogation 13 November 2004 at 14h 50).

Second, the interrogators stress that Ronald can remember everything, but for some reason now has trouble in telling the whole story. When he knelt down next to the body of the dying granny, he knew:

*Interrogator:* That remark came from your subconscious at that moment. There you were completely stressed and you did not have the ability to think 'Hey, I am going to tell it differently from how it really is'. ... it came from your heart.  
(interrogation 12 November 2004 at 10h 05).

Third, the interrogators apply the well known minimax strategy (*cf.* Vrij, 1998; Inbau, Reid, Buckley & Jayne, 2001) for example:

*Ronald:* I am still sure that I did not push granny on purpose. I wouldn't dare.

*Interrogator:* No, not on purpose, but maybe by accident.

*Ronald:* It must have happened by accident. But I should have been aware of that, shouldn't I?

*Interrogator:* You must be able to remember that – these kinds of things are remembered.

*Ronald:* I don't know.

*Interrogator:* The consequences are so enormous, aren't they? For all parties involved it is really sad.  
(interrogation 10 November 2004 at 19h 09)

In this way, the interrogation is presented as a common enterprise to restore Ronald's memory:

*Interrogator:* You now know a lot more than you did yesterday. You are doing very well.  
(interrogation 10 November 2004 at 19h 56)

*Interrogator:* But from now on it is going to get better. Because now we are working on a solution together, the three of us.  
(interrogation 11 November 2004 at 11h 07).

*Ronald:* Well, I hope I am doing all this right.

*Interrogator:* What wouldn't you do right?

*Ronald:* Well, because I am so uncertain about what happened, because I know so very little.  
(interrogation 11 November 2004 at 11h 08)

*Interrogator:* You also want to know the truth, don't you?

*Ronald:* Yes, for sure, absolutely.  
(interrogation 11 November 2004 at 14h12).

*Ronald:* The strange thing is that I myself hardly remember anything.  
... I've just lost whole pieces.

*Interrogator:* Then we must go deeper into everything and maybe things will come back to you. I think that the prosecutor will not be at all pleased this afternoon if someone says: 'I do not know, I do not know, maybe I pushed her.' He wants a clear story. If it is not for your benefit, it is for the victim's family.

*Ronald:* I'm trying to cooperate fully.

*Interrogator:* You have certain responsibilities. If you were fucking around with your drunk head on the [balcony] railing and dropped [her] over it, then you are responsible.  
(interrogation 12 November 2004, 9h 51)

Note that in this case there is no possibility of checking the information in the confession. There are no eyewitnesses, there is no trace evidence; even the manner in which granny fell from the balcony is unclear. The police made a full reconstruction of how granny might have fallen and established that, if she is 1.78 m tall, then she could have been pushed over; but if she was only 1.72 m, that would be impossible. The problem is that granny's height is unknown. The pathologist measured her at 1.79 m, but it is a known fact that people lying down are longer. Granny's passport states that she was 1.72 m and a doctor she visited a year earlier measured her as 1.69 m. Thus, all the information Ronald gave in his confession complies with how the police think everything happened and not necessarily with what really happened, because nobody knows.

What is more, Ronald does not know for a simple reason: he was too drunk to remember (*cf.* Van Oorsouw, Merckelbach, Ravelli, Nijman & Mekking-Pompen, 2004). The police convinced him about facts that are their reconstruction of events. Ronald consistently admitted to these facts but qualified this by saying that he cannot remember and the police officers have convinced him that this is what must have happened. His lack of memory is also evident from a letter Ronald wrote six months later, in which he apologized to granny's family. In the letter Ronald asserts that he is offering his sincere apologies because he 'must have killed' granny.

The Sneek balcony murder confession appears to be unproblematic at first sight for several reasons. First, the suspect apparently is telling a rather complete story. At a second look, the story is completely built on suggestions from the interrogating police officers. Second, there seems to be no strong interrogation or some form of duress for the suspect. In fact, real duress is not at all necessary to obtain a false confession. (See, for instance, some Dutch cases

where we know a false confession was obtained, such as the Schiedam Park murder [Van Koppen, 2008] or the Putten murder case [Wagenaar & Crombag, 2005].)

In the Putten murder case two men were convicted of raping and murdering a young woman, Christel Ambrosius. Christel visited her grandmother who lived in a cottage on the edge of the woods on Sunday, 3 October 1995. As granny was out visiting friends when she arrived, Christel collected the back door key from the barn. Inside the house she was raped and murdered. Four men were arrested and subjected to lengthy interrogations. All four confessed, although one of them, Wilco Viets, did so as if he was recounting his dreams. Two suspects confessed to having stood outside, looking inside watching the other two committing the crimes. Wilco Viets and Herman Dubois confessed to the rape and murder and were convicted, even though semen found on Christel's leg of did not match that of any of the suspects. Also, the four confessions were different and incompatible and on many aspects did not fit the scene of the crime either. Years later Viets and Dubois were acquitted in a retrial. The other two have never been prosecuted.

The four men confessed to four separate pairs of police officers. The interrogations were taped, but the tapes were only used to write up the statement summary and then reused. As far as I can tell (I served as expert witness in the retrial of the case; see also Blaauw, 2002; Wagenaar & Crombag, 2005), the interrogations were not very harsh. The four suspects were brought to their confessions by interview tactics, of which six could be identified. First, the suspects were led to doubt their own memory. Second, they were encouraged to talk hypothetically about how the crime might have been committed. This was followed by discussions of how the crime was actually committed once the hypothetical situations had been sufficiently rehearsed. Third, the interrogators used tricks as, for instance, suggesting that traces found at the scene matched or would match the suspect. Fourth, as soon as some of the suspects made admissions, the other suspects were confronted with these statements. Fifth, the police officers gave away information. Finally, the suspects were encouraged to speculate about the crime. If their guesses were wrong, they were encouraged to go on; if they were right, the guess was recorded as the suspect's statement. To do all this, the police officers took their time; the suspect were interrogated for many hours. As far as is recorded, together they were interrogated on 200 different occasions, but probably more. The summaries of the known statements run to 812 pages.

The police tactics in the Putten murder case could be demonstrated using the summaries alone; undoubtedly, I could have said much more if there had been tapes of the interrogations. But even then, it could not have been expected that firm conclusions as to the veracity of the statements would have been possible. My analysis concluded that one should be very cautious with the confessions of the four suspects and even that there was support for the hypothesis that the confessions were false. At the same time, the hypothesis

that these confessions were true could not be refuted from the statements alone. The fact that these statements were so different from what actually happened to Christel in her granny's house – as far as we can tell from the crime scene – and given the semen of an unknown man on Christel's body caused the court to acquit the two men in the retrial. The donor of the semen has still not been found.

To determine that the confessions were indeed false, a thorough analysis of the tapes of the interrogations and the rest of the case file would have been necessary. In the Steered balcony murder it could be demonstrated using the tapes how the suspect's statements were steered by the police officers' suggestions. In the Putten murder case there were no tapes to analyse. That made it much more difficult to draw firm conclusions. But it is not unusual for tapes of interrogations not to exist or not always be available. What are the possibilities then?

### **The content of the confession: on forms of knowledge**

In many countries it is not customary to tape all suspect interrogations. In the Netherlands, for instance, taping interrogations was rare until recently. Now there are plans to videotape interrogations in all very serious cases, like murder and rape. The prosecution, the defence and the court used to rely entirely on the police report of the interrogations. The reports used to be, at best, a summary of all that was said, but often was no more than a summary of what the interrogators deemed relevant at the time of the interrogation.

Still, these police reports do allow for a check on the truthfulness of a confession. Let me give an example: the Schiedam Park murder (for a fuller description of this case, see Van Koppen, 2003; 2008). On 22 June 2000 two children, Nienke aged 10 years and her 11-year-old friend Maikel, were playing in the Beatrixpark in Schiedam, a town near Rotterdam. After a while, they thought it was time to go home for dinner. While going to retrieve their bicycles which they had left a little distance away, a young man grabbed them by their necks and walked them some 90 m into bushes. The attacker ordered the children to undress themselves, then he stabbed Maikel several times around his neck. Finally, he strangled both children using the shoelaces from the army boots Maikel was wearing. Maikel survived by playing dead; Nienke was killed.

After the assailant left, Maikel stepped out of the bushes, naked with the shoelace and boot still around his neck. He approached a man who was standing on a bridge near the bushes. That man stopped a passing cyclist, Kees Borsboom, who then called the police using his mobile phone.

In the two days following the murder Maikel was interviewed by the police in hospital, where he stayed for a few days because of his stab wounds. He told the police what had happened and also gave a description of the killer: a man aged between 20 and 35 years, 1.80 m tall, extremely pale, with acne and a scruffy face, the pustules on the attacker's face were scratched and were

oozing blood and pus. As it later turned out, Maikel's statements were extremely accurate. The offender description was correct to the point of even describing the man's unusual features. Maikel was the only direct witness of the man taking the two children into the bushes or attempting to murder them.

Some weeks before the murder Kees Borsboom, the man who called the police, asked a boy in the same park whether he wanted to earn 25 guilders. Although the boy said 'no', Borsboom said: 'If you jerk me off, I'll give you 25 guilders.' The boy ran home. Some time after the murder the boy saw Borsboom again, went home and collected his father. His father, a police officer, identified himself to Borsboom and asked him what he had done to his son. Borsboom apologized immediately and told the police officer that he was in therapy for his behaviour and that he would never do it again. Nevertheless, he agreed to attend the police station a few days later. Before the meeting, the police officer entered Borsboom's name in the police computer and saw he was a witness in the Nienke murder case. From that moment on, Borsboom was the prime suspect. He was prosecuted and convicted both by the district court and the Court of Appeals. He was sentenced to 18 years in prison, followed by compulsory confinement in a forensic mental hospital; which in this case is effectively a whole-life sentence.

Borsboom did not fit the offender description given by Maikel at all and was, in fact, innocent. We know this because another man confessed to the murder some years later. He had intimate knowledge of the crime and his DNA matched samples from the scene of the crime. But let us return to Kees Borsboom.

During a weekend in September 2000 Borsboom made confessions. His interrogations were not recorded, nor was his attorney present, even though the attorney had asked to attend. The prosecutor refused. Borsboom later contended that the interrogations were made under duress. Of course, the two interrogating police officers denied this. Even at the time, there were indications that Borsboom was telling the truth. His confessions should have been suspected, not because Borsboom said they were false – a lot of suspects say so afterwards – but because his story was so different in so many details from Maikel's that the police should never have trusted his confessions. Please remember that Maikel was the only true eyewitness of the murder.

Let me give a few examples. 1) Maikel told the police that the killer grabbed them by the neck and said, 'Come on, come with me'. He had a knife in his hand all the time. Borsboom in his confession, however, said that to begin with the knife was in his hand, but put it in his pocket when he seized the children. 2) Maikel said that the killer ordered them to undress. Maikel had trouble taking off his army boots, so the killer started pulling them and jerking his clothes. Borsboom maintained that he did not touch the children while they were undressing until they were naked. 3) The killer was wearing a blue baseball cap. Borsboom said he was wearing no cap. In fact, none of the people who encountered him that day saw him with any hat. 4) The sequence in which the killer did everything in the bushes differs between Maikel's and Borsboom's versions.

Why, then, did the police not see all these discrepancies in Borsboom's confessions? There is a simple, though illogical, reason: they did not trust Maikel. Many in the team thought that Maikel might have killed Nienke. The police hired an educationalist, Ruud Bullens, to give guidance on the interviewing of Maikel and to serve the interests of Maikel during the interviews. Almost from the beginning, they did not trust Maikel much, even long before Borsboom had been arrested. The major reason for that seems to be that Maikel was much more intelligent than the police officers; they considered him to be a very odd boy. Also, Maikel had displayed behaviour that was considered odd: he did not yell at any point in time during the attack, even though a lot of people were passing by the bushes. More important, Bullens told the police that Maikel had 'a big secret', without specifying what that secret might be and without explaining – also afterwards – how he knew. The police suspected that Maikel had killed Nienke, stabbed and strangled himself and, moreover, concealed the knife, which has never been found. After Borsboom's arrest, the police tried to explain away the blatant differences between the confessions and the statements made by Maikel by rigorously interviewing Maikel again. The child did not give an inch, so the explanation had to be done by other means. This was done, again, using the statements of Bullens and a psychologist who reviewed the tapes of Maikel's interviews. Following their expert reports, it was concluded that the perception of Maikel has been so blurred by the high emotional tone of the situation, that his statements could not be trusted. So, the police, prosecution and courts did not trust his offender description and all the parts of his statements that contradicted the confession made by Borsboom.

Of course, there is no logic to this, but none of the trial participants seems to have bothered about this. Either Borsboom was the killer and Maikel was innocent and there is no reason to disbelieve him, or Borsboom is innocent, and only then is there reason to suspect Maikel and distrust him. Considering Borsboom guilty and distrusting Maikel at the same time – the police's choice – seems perverse.

Intimate knowledge of the crime is an important measure for the veracity of a confession. In fact, Dutch police officers learn during training that a suspect saying he committed a crime is of no interest. A suspect's account should conform to evidence the police have from other sources.

Testing a confession in this manner is less straightforward than it seems at first sight. First, if suspect's story is in line with evidence from other sources, that can only be seen as a sign of the veracity of the confession in combination with knowledge that the suspect did not get the information from other sources. So, we must know that police officers did not feed the relevant information to the suspect. A first step is that interrogations are tape-recorded. But then still we need to know that the police officers did not disclose intimate knowledge for instance when transporting the suspect from prison to the police station. Also, we need to establish the suspect did not get information from other sources, for instance because he was present at the scene of the

crime, but not in the role of perpetrator, or the crime story was told to him later by the perpetrator.

In that sense, it is easier to establish that a confession is false. If a suspect does not have intimate knowledge of the crime at all or confesses to all kinds of wrong information, as Borsboom did for the killing of Nienke, the conclusion can be drawn that the confession is false.

In this vein Han Israëls proposed another form of knowledge that can be used to test the confession. He called this police knowledge (Israëls, 2004; Israëls & Van Koppen, 2006), using the Ina Post case to demonstrate how that works.

On the evening of 22 August 1986 the corpse of 89-year-old Ms. Kolstee was found in her apartment in Leidschendam, near The Hague. The police investigation soon turned to women who worked at a care institution for the elderly and who looked after Ms. Kolstee. She was not only murdered; cheques were stolen from her apartment, most of which were cashed. Some (but not all) of the carers were subjected to a writing test and only the handwriting of Ina Post vaguely resembled the handwriting on the cheques. She thus became the prime suspect. She had been interrogated in the apartment, helping the police to establish what might have been stolen. On 8 September, Post was arrested and on 11 September she confessed. There were no tape-recordings of the interrogations; that was unheard of in these days. In the police report Post is quoted as saying: 'In my previous statements I did not tell the truth. Now I am prepared to do so. ... I needed the money, my accounts were in the red.' She told how she opened a cupboard looking for money. When Ms. Kolstee entered the room, Post hit her with her walking stick. Ms. Kolstee fell unconscious. 'I panicked', Ina Post claimed, and she strangled Ms. Kolstee with an electric cord.

The Ina Post case is special in that she was interrogated in the course of an ongoing police investigation. A lot was unknown to the police at that point. In fact, they were entertaining some strong misconceptions. These can be traced in Post's confessions, proving that what she confessed to could not have come from her own memory but could only have been suggested to her by the police. Let me give some examples.

Post confessed during the course of several interrogations, starting on the night of 11 September. That evening she told the custody officer in the police station that she wanted to be interrogated under hypnosis. He phoned the officer in charge of the investigation at home, who with another police officer returned to the police station. The other police officer drove past Ms. Kolstee's apartment to collect her mail. In the mail was a bank statement showing that all the cheques to that account were presented on 4 September (remember the murder took place on Friday, 22 August). So, the police assumed that all the cheques were cashed, starting on the Monday after the murder. That evening Post confessed that she cashed almost all the cheques during the week after the murder, between 1 and 4 September. Only later, when the police received the original cheques from the bank, did it turn out that the cheques were all cashed not at banks, but at a department store and not in the week

after the murder, but the very next day, 23 August. What happened next? During the next interrogation Post confessed that she cashed the cheques on Saturday, 23 August at a department store in The Hague. So, we can be certain that Post only told the police she cashed the cheques in the week after the murder because she was following police suggestions.

The same can be seen in several other parts of her confessions. To give a second example, Ina Post confessed she stole several items, among which was a folder containing bank statements. That seemed intimate knowledge at the time, but we know now was based on police suggestion. What happened? Scene of crime detectives found the folder and examined it for traces. The interrogating police officers, however, were under the impression that it was missing. Thus Ina Post confessed that she had stolen it.

Let me give one other example. All the cheques were cashed at the department store's money counter for the maximum amount, except one. That one was used to buy something in the department store. Ina Post confessed to that, but her account was very odd. She confessed that she bought something costing 34 guilders – the amount written on the cheque – but did not know *what* she bought. This is alien to how people think: we usually remember what we have bought better than we can remember how much it costs.

Han Israëls defined such knowledge as police knowledge: the suspect confesses to something that can only be traced back to inaccurate suggestions made by the police. The police knowledge in Post's confessions proves that she got her knowledge of the crime from suggestions made by the police officers and not from her own memory.

Police knowledge thus can prove that the confession is false, or at least that a certain part of the confession is false. This poses the question of how much police knowledge is needed before we can conclude that the whole of the confession is false. In the same vein the question can be posed how much wrong intimate knowledge of the crime is necessary before we can conclude that the whole of the confession is false. I do not have a ready answer to that, but some elements seem relevant here. First, of course, it matters whether police knowledge or inaccurate intimate knowledge concerns central or peripheral elements of the crime. Second, some knowledge of that kind might be a much stronger indication of a false confession than other kinds of knowledge. A system comparable to what Olson & Wells (2004) proposed for alibis may be useful for confessions. Third, and last, it must be noted that using police knowledge and inaccurate intimate knowledge can logically prove that the confession is false.

## Conclusions

Much knowledge has been gathered on false confessions and why suspects make them. Most of that knowledge, however, is concerned with what may predict or elicit a false confession. Forensic practice, however, requires different



knowledge, namely how in retrospect a true confession can be distinguished from a false one. Less is known about how to overcome the problem. In this chapter I have argued that if much is known about the interrogations and the circumstances surrounding it (see the Sneek balcony murder case) definitive answers can be given to the veracity of the confession. If less is known, sometimes definitive answers can be given, as in the Schiedam Park murder. I have also argued that personality traits and the nature of the interrogations *per se* are not very useful, but also not entirely useless, in identifying false confessions.

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## References

- Bem, D. J. & Funder, D. C. (1978). Predicting more of the people more of the time: Assessing the personality of situations. *Psychological Review*, 85, 485–501.
- Blaauw, J. A. (2002). *De Puttense moordzaak: Reconstructie van een dubieus moordonderzoek [The Putten murder case: Reconstruction of a dubious murder inquiry]*, 3rd edition. Baarn: Fontein.
- Gudjonsson, G. H. (2003). *The psychology of interrogations and confessions: A handbook*. Chichester: Wiley.
- Horselenberg, R., Merckelbach, H. & Josephs, S. (2003). Individual differences and false confessions: A conceptual replication of Kassin and Kiechel (1996). *Psychology, Crime, and Law*, 9, 1–8.
- Inbau, F. E., Reid, J. E., Buckley, J. P. & Jayne, B. C. (2001). *Criminal interrogation and confessions*, 4th edition. Gaithersburg, MD: Aspen.
- Israëls, H. (2004). *De bekentenissen van Ina Post [The confessions by Ina Post]*. Alphen aan den Rijn: Kluwer.
- Israëls, H. & Van Koppen, P. J. (2006). Daderkennis, politiekennis en sturend verhoren [Suspect knowledge, police knowledge and steering interrogations]. *Nederlands Tijdschrift voor Rechtsfilosofie en Rechtstheorie*, 35, 8–18.
- Langbein, J. H. (1977). *Torture and the law of proof: Europe and England in the ancien régime*. Chicago: University of Chicago Press.
- Langbein, J. H. (1983). Torture. In S. H. Kadish (Ed.), *Encyclopedia of crime and justice*. New York: Free Press.
- Mischel, W. (1977). The interaction of person and situation. In D. Magnusson & N. S. Endler (Eds.), *Personality at the crossroads: Current issues in international psychology*. Hillsdale, NJ: Lawrence Erlbaum.
- Mischel, W. (1979). On the interface of cognition and personality: Beyond the person-situation debate. *American Psychologist*, 34, 740–754.

- Ofshe, R. J. (1989). Coerced confessions: The logic of seemingly irrational action. *Cultic Studies Journal*, 6, 1–15.
- Olson, E. A. & Wells, G. L. (2004). What makes a good alibi? A proposed taxonomy. *Law and Human Behavior*, 28, 157–176.
- Ost, J., Costall, A. & Bull, R. H. C. (2001). False confessions and false memories: A model for understanding retractors' experiences. *Journal of Forensic Psychiatry*, 12, 549–579.
- Van Koppen, P. J. (2003). *De Schiedammer parkmoord: Een rechtspsychologische reconstructie [The Schiedam park murder: A legal psychological reconstruction]*. Nijmegen: Ars Acqui Libri (met medewerking van Ch. Dudink, M. van der Graaf, M. de Haas, J. van Luik en V. Wijsman).
- Van Koppen, P. J. (2008). Blundering justice: The Schiedam Park murder. In R. N. Kocsis (Ed.), *Serial murder and the psychology of violent crimes*. Totowa, NJ: Humana.
- Van Oorsouw, K. I. M., Merckelbach, H., Ravelli, D. P., Nijman, H. L. I. & Mekking-Pompen, I. (2004). Alcoholic blackout for criminally relevant behavior. *Journal of the American Academy of Psychiatry and the Law*, 32, 364–371.
- Vrij, A. (1998). Interviewing suspects. In A. Memon, A. Vrij & R. H. C. Bull (Eds.), *Psychology and law: Truthfulness, accuracy and credibility*. London: McGraw Hill.
- Wagenaar, W. A. & Crombag, H. F. M. (2005). *The popular policeman and other cases: Psychological perspectives on legal evidence*. Amsterdam: Amsterdam University Press.
- Wagenaar, W. A., Van Koppen, P. J. & Crombag, H. F. M. (1993). *Anchored narratives: The psychology of criminal evidence*. London: Harvester Wheatsheaf.

## Cases

- Hof (Appellate Court)'s-Hertogenbosch, 26 February 2008, LJN-number BC 5105 (see [www.rechtspraak.nl](http://www.rechtspraak.nl)).