

Focus CRIMINAL LAW

Some police trying PEACE over confrontation



Timothy Moore

Along with mistaken eyewitness identifications, false confessions are one of the major contributors to wrongful convictions. According to Innocence Project statistics, in 25 per cent of DNA exoneration cases innocent defendants made incriminating statements, delivered outright confessions or pleaded guilty. Critics attribute most false confessions to the methods used to elicit them. The oft-cited “Reid” technique uses manipulative, aggressive, deceptive and confrontational interrogation tactics in the course of pursuing the desired confession. The interrogator, for example, may inform the suspect there is ample proof of their guilt and that their culpability has been determined beyond the shadow of a doubt. They may falsely claim to have foolproof corroborative evidence by way of witnesses, DNA or fingerprints.

The effects of such false or exaggerated “evidence,” when it conflicts with a suspect’s recollections, can have the effect of shaking the suspect’s confidence in their own memory. He may come to believe that the incriminating “evidence” is as irrefutable as the interviewers have made it out to be. The ensuing doubts can trigger cognitive dissonance accompanied by a reimagining of what might have happened. As a result of imagination inflation, over time the (imagined) alternative representation that the interviewers have been suggesting can take on an aura of subjective authenticity. In other words, the suspect’s original memory can be altered, possibly permanently.

Recent research has demonstrated the ease with which false confessions can be cultivated. As reported in the March issue of *Psychological Science*, investigators implanted false memories of committing a crime in a sample



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Timothy Moore
York University

of university students, using suggestive memory-retrieval techniques. Participants were interviewed three times at one-week intervals for approximately 40 minutes each time about one true and one false memory from their early teens. The researchers had enlisted the help of the participants’ parents or caretakers to establish the authenticity of the true memory. The false-memory events were invented, but the participants were informed that their parents had confirmed their validity. For both true and false memories, some contextual cues were supplied

(e.g., the city that the participant lived in, participant’s age, the season when it took place, etc.). Of the criminal false-memory group, 70 per cent developed memories of having committed a serious crime. Accounts of true and false memories (criminal and non-criminal) were similarly complex, detailed and multisensory. For example, one girl reported throwing a rock at another girl on the playground and knocking her unconscious because the latter had called her a slut. When people are encouraged to recall an inaccessible memory, they may try to retrieve

it by forming a mental image of the event. Repeatedly imagining a non-experienced event can cause imagination to be confused with reality. The memory retrieval techniques that were used in this study mirror those that are commonplace in Reid-based procedures.

Reforms to police interrogations have been evolving, albeit slowly. In 2008, senior management of the Royal Newfoundland Constabulary (RNC) agreed to greenlight a pilot project on the development and implementation of the PEACE model of investigative interviewing. The RNC became the first police organization in North America to adopt PEACE as their official protocol for interviewing suspects. Other jurisdictions are following suit.

PEACE is an acronym for the stages of an information-gathering interview: preparation and planning; engage and explain; account; closure; and evaluation. Importantly, PEACE is informed by the available scientific evidence regarding the best way to elicit reliable investigative and evidential information from suspects and accused persons (as well as victims and witnesses). The approach was developed in England and Wales following some highly publicized miscarriages of justice to which coercive interrogation tactics had contributed.

The model teaches officers about how memory works, how adaptive interpersonal behaviours can forge a productive conversational dynamic, how to ask questions that elicit accurate and complete information, the importance of note-taking during an interview, and how to challenge accounts of what happened with real evidence. Beyond the use of science-based techniques, the philosophy underpinning such an information-gathering approach is to be open-minded, respectful, and objective. Importantly, the model is devoid of practices that aim to manipulate, trick and coerce people into providing desired information. PEACE not only represents a shift to incorporate ethics and

science into interrogation practices, but a genuine shift away from the antiquated, guilt-presumptive, confession-seeking mindset characteristic of the much-criticized Reid technique.

Some organizations (Toronto Police College; RCMP) have recently attempted to combine old interrogation styles (i.e., the Reid technique) with the newer information-gathering approaches advocated by PEACE. Such hybrid models may be attempting to achieve the “best of both worlds” — the integration of science-based practices with previous confrontational tactics. This approach encourages an ethical and fair approach at the outset of interviews but then recommends an accusatorial and manipulative line of attack if the initial amicable approach is unsuccessful. As noted above, however, there remain good reasons for opposing Reid-like tactics, notwithstanding that they are enshrined in case law. Such practices run the risk of having statements from guilty individuals being ruled inadmissible and have the added danger of eliciting false confessions from the innocent.

While the move away from an exclusive reliance on accusatorial/coercive approaches to a more modern information-gathering model is to be applauded, incorporating the vestiges of the previous confrontational system into the new method may send a mixed message to new recruits. The potential gains to be achieved by moving to the PEACE procedure may be attenuated, if not undone by a penchant for maintaining the very methods that PEACE was designed to remedy. It is instructive that in the U.K., the birthplace of PEACE, the confession rate today is at or around the same level as that which existed prior to PEACE. Moreover, there have been no known cases of wrongful convictions arising from interrogation-induced false confessions.

Timothy Moore is a professor of psychology at York University’s Glendon College, where he teaches psychology and law.

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Leila Feldman, M.A. OACCPP

Certified Anger Management Facilitator (C.A.M.F.)
Individual and couples counselling
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Masters in Counselling Psychology
T - 416-706-9315
E - leila.feldman7@gmail.com

200 St. Clair Avenue West,
Ste. 401 WD
Toronto, Ontario, M4V 1R1

canadiantherapists.com/leilafeldman