

True Crimes, False Stories

It's hard to imagine why someone would own up to a serious crime they didn't commit, yet false confessions occur with surprising regularity for reasons ranging from a morbid desire for notoriety to pushy police interrogations. But DNA testing of old evidence now means falsely imprisoned people are walking free.

WORDS BY JOANNA TOVIA

After 13-year-old Daniel Morcombe was abducted from a bus stop on Queensland's Sunshine Coast and killed in 2003, it would take 11 years before police finally put his murderer behind bars. Serial child sex offender Brett Cowan had been flagged as a serious suspect well before police staged an undercover operation that led him to confess to the crime, but the investigation had been complicated by several people earlier professing their guilt.

One confessor, a convicted child sex offender, told a coronial inquest into Morcombe's death that he had helped plan the boy's abduction and watched his adopted father sexually assault Daniel before dumping his body in the Brisbane River. In fact, the man was seeking revenge – his father had alerted police about his collection of child pornography, a tip-off that led to his 10-year conviction for sex offences.

The murdered boy's father, Bruce Morcombe, said it was "disgraceful behaviour that anybody would lie about their knowledge of what happened to Daniel for their own personal gain" – not to mention the trauma the family went through on hearing horrific details about what had supposedly happened to Daniel in the made-up version of events. "To frustrate and upset the family is appalling behaviour ... we appreciate the enormous efforts of police in trying to find Daniel and people like this have just been a massive distraction."

COMPLEX MOTIVATIONS

False confessions are surprisingly common, and not all of them have such clear-cut motivations as the man who lied about Daniel's murder. Modern DNA testing is revealing just how often people own up to a crime they didn't commit. According to the Innocence Project, a US legal non-profit organisation dedicated to proving wrongfully imprisoned people's innocence, of the 330 people so far exonerated through DNA testing, more than 25 per cent had falsely confessed to the crimes for which they were imprisoned.

American civil rights lawyer Peter Neufeld co-founded the Innocence Project in New York in 1992, and there are now 14 other projects

outside the US, including Australia and New Zealand. "There is no question there are wrongful convictions all over the world," Neufeld says. "There's no country that is free from wrongful convictions and no country that would not benefit from making its criminal justice system more reliable and more just."

According to Lynne Weathered, director of the Griffith University Innocence Project and executive director of the Australian Innocence Network, wrongful conviction is a fact of life in Australia, just as it is in other sophisticated criminal justice systems. The rate of wrongful conviction in Australia is estimated to be 1 per cent of all crimes. "If this estimate is true, there are approximately 200 innocent persons in prison throughout Australia

"To frustrate and upset the family is appalling behaviour."

– Bruce Morcombe

at any given time," Weathered says. Until recently, she says any claims of wrongful conviction almost always went unheeded. "The advent of DNA technology has changed that," she says.

False confession is one of the most mystifying causes of wrongful conviction. The reasons why people do it are complex and varied, but often confessions emerge during harrowing police interrogations where persuasive tactics are used to compel a suspect to own up. Telling a suspect they have forensic evidence to connect them with a crime is one such tactic.

In one notorious case in the US, a woman was raped and severely beaten when jogging through New York's Central Park. The attack left her in a coma and she has never been able to remember any details of the incident, which happened in 1989. Within 72 hours of her attack, however, five boys aged between 14 and 16 had all confessed to the crime. The boys, who came to be known as the Central Park Five, were all found guilty and sent to prison, despite the fact that they there was no physical evidence linking

WRONGLY CONVICTED

Kevin Richardson is one of the Central Park Five, a group of four black and one Hispanic boys jailed for the rape and severe beating of a jogger in Central Park in 1989.

Contrary to police procedure, the boys names were released to the press before they were arraigned.

During the trial the prosecution claimed a hair found on Richardson was "similar" to that of the victim, though recent DNA testing showed it was entirely unrelated.

Richardson was 14 at the time, tried as a juvenile and sentenced to five to 10 years. He had served five and a half years by the time his conviction was overturned in 2002.

Four of the Central Park Five sued the city for malicious prosecution and racial discrimination in a case that took more than a decade to settle. Richardson is pictured below during a news conference to announce the payout in June 2014.



them to the body and that they had recanted their confessions.

The convictions were vacated in 2002 after a DNA match to convicted murderer and serial rapist Matias Reyes and his confession finally proved their innocence. The five men maintained that their confessions were a result of police coercion and intimidation. Four of the men spent around seven years in jail and

**BLACK DAHLIA**

Elizabeth Short's remains were found in a Los Angeles park in 1947. The grisly case was nicknamed "Black Dahlia" by newspapers and is one of the oldest unsolved murders in LA.

the fifth about 13 years. In 2014, they reached a total settlement of US\$41 million with New York City.

So why do people do it? "False confession is an escape hatch; it becomes rational under the circumstances," says Saul Kassin, criminal justice professor at John Jay College. The Central Park Five each spent between 14 and 30 hours under interrogation. "Everybody has a breaking point. Nobody confesses falsely in an hour," says Kassin.

But some people put their hand up for crimes they had nothing to do with even without police pressure. It could be because they're protecting the real perpetrator; because they feel guilty about committing some other, more serious, crime; or because of a pathological need for attention resulting

from feelings of inadequacy. In one famous case, more than 200 people falsely confessed to the 1932 kidnapping and murder of well-known aviator Charles Lindbergh's toddler son. The real perpetrator died in the electric chair, maintaining his innocence to the end. Similarly, when the body of aspiring Hollywood actress Elizabeth Short was found mutilated in the late 1940s, more than 30 people owned up to the crime, with more claiming responsibility over the years. The case, known as the "Black Dahlia murder", remains unsolved.

Closer to home, police continue to receive false confessions about the 2005 murder of 22-year-old Auckland woman Katrina Jefferies, a fact that police say consumes an enormous amount of their time. Most details of Jefferies' death have been withheld so police can discount false confessions.

"EGGED ON"

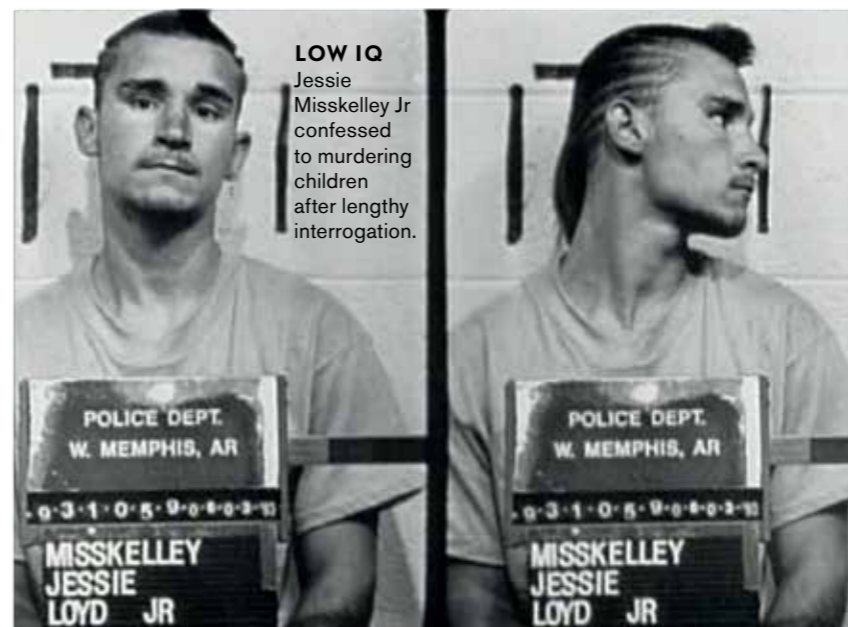
People are also known to falsely confess when under the influence of drugs or alcohol, and if they have a mental impairment and/or low IQ. In a case known as the West Memphis Three, three teenage boys locked up for murdering three young children were later released when new forensic evidence came to light and their lawyers negotiated a plea bargain. The reason they'd been convicted in the first place came down largely to the fact that one of the accused, Jessie Misskelley Jr, confessed to the crime and implicated the two others after a nearly 12-hour police interrogation. His account diverted in significant detail with facts known by police, such as the time of the murders, and he later recanted his confession.

"I don't like people keep on asking me questions when I done told them once," Misskelley Jr said later. "That's what they did, they just egged it on. And finally I just told the cops: 'Look, you know, all right, I did it. I killed them and everything.'"

With an IQ of 72, Misskelley Jr was borderline retarded, according to the Innocence Project.

To test how well police can distinguish between true and false confessions, Kassin and his colleagues recruited prison inmates for an experiment that involved each inmate giving a true narrative confession to the crime for which they'd been sentenced, and a false confession for a crime they didn't commit. They then asked groups of college students and police investigators to judge which confessions were true and false. Both groups judged the confessions with a similar level of inaccuracy.

"Laypeople and professional lie catchers



alike can accurately distinguish a truthful communication from a deceptive one at a rate that's little better than we would expect by chance," says Dr Gina Villar, of Charles Sturt University's School of Psychology.

Villar says there are two particularly worrying features about false confessions – that confessional evidence is so persuasive in producing criminal convictions, and that it's very difficult to tell if someone is lying or telling the truth. But Villar's research suggests that what someone says and how they say it during a confession can reveal whether they're lying or not. "There are measurable linguistic differences between false confessions and true accounts that cannot be attributed to anxiety," she says.

One telltale sign of a false confession is

that people tend to use adjectives far less frequently. Villar's research has also revealed that people use remorseful words about twice as often in truthful confessions. This finding is especially concerning, she says, given that sentences tend to be more severe if little remorse is shown. "The reduced proportion of remorseful words in the false confession condition opens up the possibility that the treatment received by innocent defendants might be harsher than it would be for individuals who actually committed the crimes to which they confessed." **M**

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KEYWORDS: Deception, Lying

DNA EVIDENCE PROVES INNOCENCE

Two brothers were released from a North Carolina prison in June 2015 after each spending 30 years serving sentences for raping and killing 11-year-old girl Sabrina Buie in 1983. Defence attorneys said police had coerced half-brothers Leon Brown, who was 15 at the time, and Henry McCollum, who was 19, into confessing to the crime. Both men had low IQs and were questioned for hours.

McCollum, who was promised he could go home if he signed a confession, was handed a death sentence for murder and Brown a life sentence for rape.

No physical evidence had linked the falsely imprisoned men to the crime. Both appealed their convictions, but it wasn't until late 2014 – when DNA testing of a cigarette butt found at the crime scene connected the crime to an already incarcerated man, Roscoe Artis – that their cases were overturned. Artis was in prison for another rape and murder carried out three weeks after Buie's death; he lived just a few blocks from where Buie's body had been found.

Now 47 and 51, Brown and McCollum will be compensated US\$750,000. "It ain't about money," McCollum said. "It was about just being able to see that I was innocent of a crime I was charged with ... and to live a normal life."

The pair are now getting used to such modern advances as the internet and mobile phones, and Brown plans to learn how to drive.

WHY TEENS LIE

Teenagers and children are more likely than adults to falsely admit to a wrongdoing, and the younger they are, the more likely they are to make things up.

Netflix's popular true crime documentary *Making a Murderer* has raised questions about just how fair it is for police to pressure accused teenagers to confess.

The film's main subject, Steven Avery, was acquitted of sexual assault after spending 18 years behind bars, only to be convicted of a murder he says he also didn't commit. A key witness to the murder was his then 16-year-old nephew Brendan Dassey, who was videotaped confessing to helping his uncle kill photographer Teresa Halbach. No lawyer or parent was present during the four-hour interrogation, and police used high-pressure tactics to get Dassey to confess. He later recanted the confession, but has since been handed a life sentence. Dassey also has a low IQ.

More than 90,000 people have signed a petition on change.org directed at Wisconsin Petitioning Magistrate Judge William E Duffin. They are requesting exoneration or a retrial on the grounds that Dassey "is being falsely imprisoned for a crime that he was coerced into confessing, as a minor, through deceitful investigatory methods".

A University of California study in 2003 found teens are particularly vulnerable to confessing to crimes they didn't commit, especially when they're 16 or younger. Presented with fake evidence in an experiment, 88 per cent of 15 and 16-year-olds admitted to crashing a computer, despite having nothing to do with it.

In the real world, interrogators use the same tactics on teens – promising they can go home after they confess or claiming police have irrefutable evidence against them.



Steven Avery's mugshot in 1985.