CONFESSIONS IN CONTEXT

A *confession* is a detailed written or oral statement in which a person admits to having committed some transgression, often acknowledging guilt for a crime. In some settings, confessions are presumed necessary for absolution, social acceptance, freedom, or physical and mental health, making it easy to understand why people often exhibit an "urge to confess." In other settings, however, confessions predictably result in personally damaging consequences to the confessor—such as a loss of money, liberty, or even life itself—making it difficult to understand this aspect of human behavior.

Confessions have played a multifaceted role throughout history. There are three venues of human social encounters in which one person's confession to another person has proved important: religion, psychotherapy, and criminal justice. In religion, the scene of the penitent with the Catholic priest, occurring inside a small, private, and hallowed stall known as a confessional, serves as a reminder that all of the world's major religions advise or oblige adherents to confess their transgressions as a means of moral cleansing. In psychotherapy, the image of the emotionally distressed patient lying on a couch, often in tears, while disclosing personal secrets to a therapist illustrates the widely held belief in the healing power of "opening up" the past—including memories of one's actual or imagined misdeeds. In criminal justice, of course, the classic image of the beleaguered suspect being grilled behind locked door and under the bright light of the interrogation room serves as a stark reminder that, in law, confession is the most potent evidence of guilt.

Confession in Religion

All major religions of the world—Buddhism, Christianity, Hinduism, Islam, and Judaism—provide a mechanism and encouragement for followers to acknowledge and disclose their transgressions. The purposes served by these confessions are twofold: to cleanse the individual's soul and to police the community, thus serving as a deterrent to wrongdoing. Religions vary as to how, when, where, and to whom confessions are given, and even whether they are made in private or in public. Profound differences exist even within Christianity. For example, Quakers and Unitarians are encouraged to confess their sins to themselves, through private prayer. Other Christians, such as Catholics and the Greek and Russian Orthodox, have more formal rituals whereby they confess to ministers or priests, often at a designated time or place. The adoption of this model was particularly explicit in the year 1215, when the Roman Catholic Church, in the Fourth Lateran Council, made the rite of an annual confession obligatory for all adherents. In still other religions, the confession to be given depends on the nature of the misdeed. Among American Southern Baptists, for example, people are required to disclose their sins to whomever they have specifically harmed—such as a spouse, an employer, or the entire congregation.

Confession in Psychotherapy

In many parts of the world, people have long believed that confession is good not only for the soul, but also for the body and the mind. Several years ago, La Barre (1964) found that many natives of North and South America believed that physical and mental health required purity, which in turn required the exposure of misdeeds—often through elaborate confession ceremonies involving shamans and witch doctors. Similar notions have permeated Western medicine, as when Breuer and Freud (1895/1955) observed from psychotherapy sessions that patients often felt better after purging the mind of material buried beneath consciousness. This discovery spawned Freudian psychoanalysis, the first systematic "talking cure," and now forms the basis for most modern psychotherapies and social support groups.

Recent research confirms the healing power of opening up about one's problems, traumas, and transgressions. In a series of controlled experiments, Pennebaker (1997, 2002) and other investigators had research subjects talk into a tape recorder or write either about past traumas or about trivial daily events. While speaking or writing, subjects in the trauma group were physiologically aroused and upset. Many tearfully recounted deaths, accidents, failures, personal wrongdoings, and instances of physical or sexual abuse. Soon, however, these subjects felt better. Although systolic blood pressure levels rose during the disclosures, they later dipped below preexperiment levels. Moreover, these subjects exhibited a decline in doctor visits over the next 6 months.

Other studies, too, have shown that keeping confessional secrets can be stressful and that "letting go" can have therapeutic effects on health—especially when the events in question are highly traumatic (Smyth, 1998). In a study of women who had undergone an abortion, those who talked about it to an experimenter—compared with those who did not—were later less haunted by intrusive thoughts of the experience (Major & Gramzow, 1999). In another study, researchers identified 80 gay men who were newly infected with the HIV virus but were asymptomatic, questioned them extensively, and tracked their progress for 9 years. Results showed that the infection spread more rapidly and length of survival was shorter in men who were partly "in the closet" compared with those who were open about their homosexuality (Cole, Kemeny, Taylor, Visscher, & Fahey, 1996). This correlation does not prove that coming out is healthier than "staying in." In a controlled laboratory experiment, however, subjects told to suppress rather than express turbulent emotional thoughts exhibited a temporary decrease in the activity of certain immune cells (Petrie, Booth, & Pennebaker, 1998).

Confession in Criminal Law

In criminal law, confession evidence is the government's most potent weapon—so much so, as one prominent legal scholar

put it, that "the introduction of a confession makes the other aspects of a trial in court superfluous" (McCormick, 1972, p. 316). On the one hand, confessions play a vital role in law enforcement and crime control. On the other hand, they serve as a recurring source of controversy, with questions often arising about whether a statement is authentic, voluntary, reliable, the product of a competent waiver of rights, and in accord with the law. For these reasons, confessions to crime have been described as "troubling" (Brooks, 2000).

To guard the integrity of the criminal justice system, to protect citizens against violations of their constitutional rights, and to minimize the risk that innocent people are induced to confess to crimes they did not commit, American courts have set guidelines for the admission of confession evidence at trial. According to Wigmore's (1970) historical overview, the modern treatment of confession evidence in law has evolved through a series of stages. In England, during the 16th and 17th centuries, no restrictions were placed on the use of confessions; all avowals of guilt were accepted at face value. At least to the middle of the 17th century, physical torture was used to extract confessions. By the 19th century, however, the courts had become more skeptical of confessions and were quick to reject them for a lack of reliability. Now, as in much of the 20th century, confessions are not accepted or rejected outright. Instead, they are considered on a case-by-case basis, evaluated by a "totality of the circumstances" and the requirement that they be voluntary. Hence, confessions are supposed to be excluded if elicited by brute force; by deprivation of food, sleep, or other biological needs; by threats of punishment or harm; by promises of immunity or leniency in prosecution; or without apprising a suspect of his or her legal rights (as we discuss shortly, however, some egregious tactics are permitted; in the United States, for example, it is common practice for police to lie to suspects about the evidence). Typically, in any case involving a disputed confession, a preliminary hearing is held so that a judge can determine whether the confession was voluntary and, hence, admissible as evidence. In American courts, the judge will then admit confessions deemed voluntary either without special instruction or with directions to the jury to make an independent judgment of voluntariness and disregard statements they find to be coerced (for a review of American case law, see Kamisar, LaFave, Israel, & King, 2003).

In recent years, social scientists and psychologists from the clinical, personality, developmental, cognitive, and social areas have brought their theories and research methods to bear on an analysis of confession evidence. Some of this work has been conducted in North America, primarily the United States, where the conduct of police interrogations is highly confrontational, involving a great deal of trickery and deceit, and where the presentation of confession evidence at trial is highly adversarial. Other work described in this monograph was conducted in England, Ireland, Iceland, and other countries of Western Europe, where interrogations are less aggressive (e.g., English courts do not permit police to lie to suspects about the evidence; they require that interrogations be tape-recorded), and where confessions are treated with greater caution at trial (e.g., they are more likely to be suppressed; experts are more readily admitted to testify). For a more detailed review of the differences between American and English law, see Gudjonsson (2003b).

Drawing on individual case studies, archival reports, and laboratory and field experiments, we scrutinize the following chain of events: (a) the preinterrogation interview, a process through which police target suspects for interrogation by judging whether they are being truthful or deceptive; (b) the *Miranda* warning waiver, a process by which police apprise suspects of their constitutional rights to silence and to counsel and elicit a waiver of these rights; (c) the interrogation, a process of social influence in which police use various techniques to elicit admissions of guilt; (d) the full narrative confession, and how and why it is given, sometimes by people who are innocent; and (e) the consequences of confession evidence as evaluated by police, prosecutors, judges, juries, and other people. Within this framework, we address a number of specific issues, such as the unique vulnerability of juveniles and other high-risk populations, the role of psychological experts at trial, proposed reforms designed to protect the innocent during police interrogation, and the need for a policy that mandates the videotaping of all interviews and interrogations.

THE PREINTERROGATION INTERVIEW

At a conference on police interviewing that the two of us recently attended, Joseph Buckley (2004)—president of John E. Reid and Associates (a Chicago-based organization that has trained tens of thousands of law-enforcement professionals) and coauthor of the widely cited manual *Criminal Interrogation and Confessions* (Inbau, Reid, Buckley, & Jayne, 2001)—presented the influential Reid technique of interviewing and interrogation (described later). Afterward, an audience member asked if his persuasive methods did not at times cause innocent people to confess. His reply was, "No, because we don't interrogate innocent people."

Functions of the Preinterrogation Interview

To understand the basis of this remark, it is important to know that the highly confrontational, accusatory process of *interrogation* is preceded by a neutral, information-gathering *interview*, the main purpose of which is to help determine if the suspect is guilty or innocent. Sometimes, an initial judgment is reasonably based on information provided by witnesses or informants or on other extrinsic evidence. At other times, it may be based on crime-related schemas or "profiles" about likely perpetrators and motives (Davis & Follette, 2002)—such as the