Can psychology prevent false confessions? (BY ZAK STAMBOR)

People confessed to crimes they didn’t commit in more than a quarter of U.S. convictions overturned by DNA testing. Psychologists are examining why the phenomenon exists.

In 1988, 22-year-old Chris Ochoa worked at a Pizza Hut in Austin, Texas. When he wasn’t working he liked watching television and listening to rock bands like Aerosmith and Van Halen. And aside from a handful of parking and speeding tickets, the small, quiet, dark-eyed Ochoa had never had a problem with the law. He shared a two-bedroom apartment with his co-worker Richard Danziger and planned to attend community college and eventually transfer to the University of Texas.

But his ambitions were dashed when, on Oct. 24, Achim Josef Marino robbed another Austin-area Pizza Hut, took Nancy DePriest—the restaurant’s 20-year-old manager—to the washroom, tied her up with her bra, raped and shot her.

When Ochoa and Danziger shared a pizza and beer at DePriest’s Pizza Hut the following day, restaurant employees thought they might have been toasting to DePriest’s death and called the police, who, three days later, picked up the two men and scuttled them to separate interrogation rooms.

“That’s when the nightmare began,” Ochoa says. For 12 hours, a parade of interrogators, who called themselves names like “The Bogeyman,” presented Ochoa with a choice—confess and get a life sentence or refuse and be sent to the death chamber. When Ochoa asked for a lawyer, they told him he didn’t have the right to one because he hadn’t been charged with anything. Interrogators shoved photos of death row cells in his face and told him that this was where he would spend the remainder of his life.

“I was worried,” he says. “I didn’t know what they can and can’t do.”

After another grueling day of interrogation during which he thought to himself, “They’re going to kill me. They’re going to murder me for a crime I didn’t commit,” Ochoa confessed.

At the trial, Ochoa testified that he and Danziger—who refused to confess—robbed the Pizza Hut and raped and shot DePriest. Both men received life sentences, which they served until Marino confessed to the crime 12 years later.

Psychologists and other scientists who study false confessions say that Ochoa’s experience is anything but unique. False confessions have accounted for more than 26 percent of the nation’s first 130 convictions later overturned by DNA testing, according to the New York-based Innocence Project, which works to free the wrongly convicted. And those cases figure to be only the tip of the iceberg, says psychologist Saul Kassin, PhD, of Williams College.

A recent tide of psychological research suggests that false confessions often arise after innocent people waive their legal protections due to their ignorance of the system or their belief that the evidence will vindicate them. To stop the problem, psychologists are helping to educate interrogators about the power of social influence—especially when dealing with children, people with cognitive disabilities, or people like Ochoa who are psychologically coerced into confessing after failing to understand their rights.
Waiving protections

It may seem baffling that any person would waive their Miranda rights and other legal protections, but many suspects—because of youth, intelligence level, lack of education or mental health status—lack the capacity to understand and apply the rights they are given, says Kassin.

And when innocent suspects give their alibis, their explanations are precisely the type of alibis that police are trained not to trust: They often state that they were alone or with friends and family members.

In a 2004 article published in *Law and Human Behavior* (Vol. 21, No. 2, pages 211–221), Kassin had participants pretend they were either guilty or innocent of a mock theft of $100. After being apprehended for investigation, 58 percent of suspects waived their rights. Moreover, innocent suspects signed a Miranda waiver twice as often as guilty suspects. The reason? They felt they had nothing to hide.

“ Innocent people have the naïve and powerful belief that their innocence will set them free,” says Kassin. “ So they agree to come to the station and waive whatever safeguards are in place.”

And when innocent people talk, police often figure that the chatter is an attempt to deceive them, says Kassin. To counter the deception, they move the suspected criminal into an interrogation room and offer a host of traps to garner a confession. They might suggest, for example, that a confession will be rewarded with lenient sentencing, or offer a host of mitigating factors that might have led to the crime, or even lie about the evidence. When people continue to refuse to confess after hours in the interrogation room, stress, fatigue and claustrophobia typically ensue, says Kassin.

“ People figure they can give a confession as an escape hatch,” he says. “ They figure, ‘ It wasn’t me, and the investigation will show that.’ But they don’t realize that the confession closes the investigation—it doesn’t open it.”

Vulnerable populations

Yet not all false confessions are a ploy to leave the interrogation room. Some confess because the interrogation causes them to doubt their own memory, and they begin to believe that they may have blacked out or repressed the crime. And as interrogators offer false evidence to fill in the gaps, many, including children and people with cognitive disabilities are put at risk.

In a 2003 study published in *Law and Human Behavior* (Vol. 27, No. 2, pages 141–155), psychologists Allison Redlich, PhD, and Gail Goodman, PhD, found that the younger a child is, the more likely they were to falsely confess in a lab environment. In the study, they sat 12- to 26-year-olds at a computer, and told them to type the letters that the researcher read to them and not to touch the “ALT” keys because it would crash the computer and all data would be lost. After researchers read 115 letters, the computer screen turned black and stopped working, and the researchers, acting distressed, asked “Did you hit the ALT key?”

About 69 percent of the participants falsely confessed to hitting the key and 39 percent of the participants came to believe that actually pressed the button but couldn’t remember doing so. Although taking responsibility for crashing a computer is obviously different from confessing to a crime, Redlich suggests that the psychological processes are the same.
And because research suggests that at least 65 percent of children in the juvenile justice system have mental health disorders, it is essential that police officers alter their interrogation methods to be mindful of suspects’ vulnerabilities, she says.

“We need interrogators to take what [developmental psychologists] have learned about children’s development and apply it to child suspects,” she says, noting that the consequences of children falsely confessing to crimes could ruin children’s lives.

A safety net

In line with Redlich’s suggestions, officials in the United Kingdom have recently instituted protections to prevent false confessions.

For instance, they train interrogators to no longer assume suspects are guilty and to not lie to suspects.

“When police can lie to suspects, they can decide on dubious grounds to try to trick a suspect into confession,” says psychologist Gisli Gudjonsson, PhD, of London's Institute of Psychiatry at King’s College. “And often they persuade themselves that the person is guilty.”

Along with other psychologists, Gudjonsson—who has developed measures that assess people’s susceptibility toward compliancy and suggestibility—works as a consultant to police to help them determine the vulnerabilities of suspects with mental health disorders or issues. After interviewing and testing the suspect, Gudjonsson writes detailed reports that analyze the best interview strategies for the individual. The practice helps police obtain more reliable accounts, he says.

“There’s a lot at stake if the wrong person is convicted,” says Gudjonsson. “You cannot take a confession at face value. You have to corroborate it. Mistakes can cost people their lives.”

Even if the mistake is rectified, its effects can be long-lasting. For instance, since being released, Ochoa settled with Austin for $5.3 million and graduated from the University of Wisconsin School of Law. But success and financial security cannot make up for the 12 years he lost, he says. He’s perpetually frustrated that people fail to grasp that his confession was not voluntary but grew out of circumstance.

To help prevent cases like Ochoa’s, the British police now videotape all interviews and interrogations. The tapes provide an objective, accurate record of circumstances surrounding suspects’ statements—which Kassin endorsed in a 2005 *American Psychologist* (Vol. 60, No. 3, pages 215–228) article that examined whether innocence puts innocent suspects at risk. In the United States, videotaping is only mandatory in Minnesota, Alaska, Illinois and Maine, despite data compiled by the Center on Wrongful Convictions at Northwestern University Law School showing that videotaping interrogations boosts police officers’ effectiveness in catching criminals and keeping innocent people free.

Kassin’s article suggests that videotaping could help judges and juries understand the context in which promises or threats were made and whether a confession’s details grew out of interrogators’ questions. And videotaping could also help deter police from conducting prolonged interrogations, like Ochoa's two-day interrogation, since research suggests that 73 percent of false confessions are given after more than six hours of interrogation.

“Psychologists need to help police develop a set of techniques to catch criminals and leave innocent suspects unharmed,” he says. “We need to build a better mousetrap.”