

Why are people of colour at a higher risk of falsely confessing?

Answers from the psychology of prejudice?

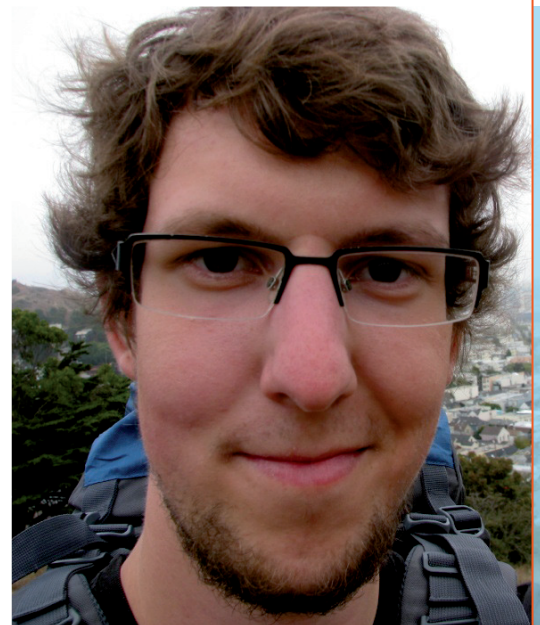
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Almost three in four wrongful conviction cases concern defendants of colour – a statistic which seems to be partly explained by the greater number of false confessions cases in this group. Among them, there are five adolescents who spent many years in prison after falsely confessing to a brutal rape in New York’s Central Park. Why were they and why are other people of colour at a higher risk of falsely confessing? To answer this question, I discuss approaches from the psychology of prejudice and their possible relationship to false confessions. Can stereotypes about Black men as criminals increase the pressure on suspects of colour in police interrogation? Do stereotypes make suspects of colour appear more nervous in interrogation? Do White police officers tend to assume the guilt of suspects of another race? Based on evidence from psychological studies, I evaluate in how far each of these approaches explains the overrepresentation of people of colour in false confession cases.

Confessions are a very powerful form of evidence (Kassin, 2012) with damning consequences for a defendant (Drizzin & Leo, 2004). Hence, false confessions present an important challenge to the legal system. In 1989, the Central Park Jogger case, which was the subject of last year’s documentary “The Central Park Five” (Burns, Burns, & McMahon, 2012), attracted widespread attention: after the brutal rape of a woman in New York’s Central Park, five teenagers (age: 14-16 years) were swiftly arrested (Duru, 2004). After around 28 hours of intensive interrogation, all suspects yielded to police pressure and delivered detailed confessions. They were subsequently declared guilty even though they denounced their confessions during the trial. Only in 2002, after having served prison sentences of up to 11.5 years (Innocence Project, 2012b), their convictions were overturned based on the confession of a convicted rapist.

This case, together with around seventy other false confessions documented in the United States by the Innocence Project (2012a), alerted researchers in legal psychology: why would anyone confess to a crime he or she is innocent of? So far, research has specifically focused on pressures present in police custody and interrogation (for a summary, see Kassin & Gudjonsson, 2004). This research showed interrogations as guilt-presumptive processes of social influence: law enforcement agents pursue the goal of making a suspect confess rather than that of information-gathering. Other lines of research focused on vulnerabilities which make suspects with certain characteristics more likely to yield to the pressure to falsely confess. Among those, youth has been particularly highlighted as a risk factor (Drizzin & Leo, 2004).

Yet, the protesters who took the fate of the Central Park 5 to the streets during the exoneration hearings pointed to another striking feature of the case (Wilson, 2002): though largely neglected in psycholegal research, all the wrongfully convicted teenagers were Black or Latino. Three of the five wrongfully convicted went as far as filing a

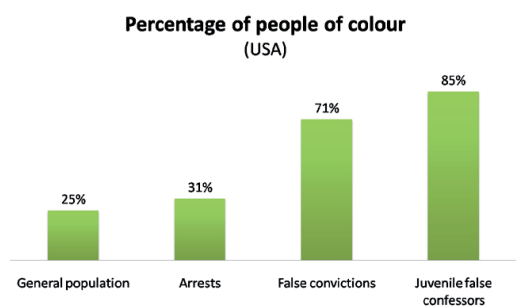


Figure 1. The rate of false convictions and juvenile false confessions among people of colour is disproportionately high compared to their representation in the general population and the number of arrests.

(pending) civil rights lawsuit against the police department on the allegation of racial discrimination (Klasfeld, 2012). The available data on all known cases of false confessions in the United States (Innocence Project, 2012a) leaves little doubt that being of colour is indeed a risk factor for false convictions: 71% of the recorded cases concern people of colour, while they constitute only 25% of the general population (Humes, Jones, & Ramirez, 2011) and account for only 31% of all arrests (U.S. Department of Justice, 2009). Others (Gross, Jacoby, Matheson,

Montgomery, & Patil, 2005) reported 85% of the sampled juvenile exonerated false confessors in the USA to be Black. Based on these and other data sets, the psychologist Cynthia Najdowski (2011) estimated between 53 and 73% of the wrongfully convicted false confessors to be Black. In view of these worrying statistics, false confessions could well form part of the explanation for the overpopulation of U.S. prisons with Black and Hispanic inmates (The Sentencing Project, 2012).

While the disproportionate risk for people of colour to be convicted based on a false confession has been well established, no definite explanation has been presented yet. As this issue is one of racial discrimination, it calls for the methods and theory of the psychology of prejudice. This particular branch of social psychology was established with Gordon Allport's seminal work "The Nature of Prejudice" (1954/1979). Shortly after anti-Semitism had fuelled mass murder of an unprecedented scale, Allport relied on psychological research to illuminate why different groups of people hated another. Since then, several strands of research much increased our understanding of prejudice. In the following, I will review evidence from three of these approaches to grasp the particular problem of false confessions among people of colour. While this review concerns legal discrimination against people of colour in general, most of the research available on stereotyping has focused exclusively on Black Americans.

Stereotyping and Policing Bias

Stereotypes are culturally-shared expectations about the attributes typically possessed by a member of a certain group. One very persistent stereotype is that of Black Americans, especially men, being prone to delinquency. Most U.S. Americans know this stereotype though few report endorsing it (Devine, 1989; Devine & Elliot, 1995). Yet, the mere knowledge of a stereotype makes it available as a guide in making decisions. This was demonstrated by Devine (1989) who presented participants with words relating to Black Americans. These stimuli were presented subliminally, meaning that they were flashed on a screen for a time short enough not to be perceived consciously but long enough to be processed unconsciously. It is assumed that this brings a concept to the forefront of the participant's mind and increases the likelihood that it is used in interpreting a social event. Participants for whom the Black stereotype had been activated subliminally tended to rate a race-unspecified person in a story as more hostile than did those who have not been exposed to the stereotype. As this effect was independent of the participants' overt racial attitudes, this study showed that possession of culturally-shared stereotypes indeed affect our judgement of members from targeted groups.

In light of this evidence, it seems likely that the stereotype of Black men as violent criminals influences police officers' judgements and work. Joshua Correll and colleagues (2007) examined the probably most consequential judgement in police work: to shoot or not to shoot. They presented police officers with a computer game in which pictures of Black and White men with either mobile phones or guns in their hands were shown. Participants had to decide within seconds whether to shoot the person. In line with Devine's findings, law enforcement agents were much quicker to shoot Black compared to White men.

Could stereotyping also explain why people of colour are convicted after false confessions more frequently than White suspects? In his commentary on race and wrongful conviction, Taslitz (2006) suggested exactly this: based on inherent cultural stereotypes, police officers had a presumption of guilt towards Black males. This, in turn, would make them less likely to take conflicting evidence into account and increase their pressure on a suspect to confess. If we construe interrogations as processes of social influence, increasing the pressure on a suspect is likely to lead to more confessions – be it factual or false. Yet, Taslitz' hypothesis, as plausible as it may be, has not been empirically tested. Future research should focus on experiments akin to the one conducted by Devine (1989) to evaluate whether stereotypes influence police interrogators' demeanour.

Stereotype Threat in Police Interrogations

Cynthia Najdowski (2011, 2012) also drew on stereotyping in her explanation for the racial imbalance in false confessions. While Taslitz (2006) focused on police officers as the perpetrators of stereotyping, Najdowski focused on the perspective of targets of stereotyping: Black suspects under interrogation are likely aware of the prevalent stereotype depicting them as criminal and violent. This approach to stereotyping had been pioneered by Steele and Aronson (1995): they instructed their Black and White participants to take a challenging verbal test which was either introduced as diagnostic of intellectual ability or as a laboratory problem-solving task. While performance did not differ in the “problem-solving” condition, White significantly outperformed Black participants in the “intellectual ability” condition. The researchers explained these findings as resulting from *stereotype threat*: when faced with a test of intellectual ability, Black students apprehend being perceived in light of the stereotype of Black intellectual inferiority and fear performing accordingly. Ironically, this worry in turn may affect their behaviour in a manner which can lead them to inadvertently confirm the stereotype. Stereotype threat has been shown to hold up in a variety of domains and for many different groups (Nguyen & Ryan, 2008).

Accordingly, Najdowski (2011, 2012) hypothesised that knowledge of the aforementioned stereotype of Black criminality causes Black suspects to fear being perceived as guilty. This apprehension could lead them to be more nervous during interrogation and to regulate their behaviour to appear innocent. As self-regulatory efforts and higher arousal, however, are known to police interrogators as signs of guilt, they might in turn exert more pressure to confess on a Black suspect during interrogation. This added pressure may well explain the higher rate of false confessions among suspects of colour. In her doctoral dissertation, Najdowski (2012) put her hypothesis to the test: Black and White participants were invited into the laboratory under the pretence of taking part in a study about attitudes and anxiety. Ostensibly unplanned, each participant was interrupted by a White security officer – a confederate instructed by the researcher – while filling in a questionnaire on a tablet computer. The security officer inquired either about the theft of a tablet computer or simply asked for directions. While the latter was a non-threatening interaction, the stereotype of Black criminality was very relevant to the former. As predicted, Black participants reported more concern about being accused during the stereotype-relevant condition and were rated as more nervous than their White counterparts. This study points to stereotype threat as promising explanation of the risk factor colour in interrogations.

Group Bias in the Detection of False Confessions

While both previously-discussed explanations are promising, both focus on police pressure during investigations. In my own research, however, I took a different approach to explain the racial imbalance in false confessions: before a conviction can result from



Figure 2. A pair of confessors with contrasting headbands.

a false confession, those in the hierarchy of law enforcement, including judges and jurors, have to fail to identify a false confession as such. As Kassin, Meissner, and Norwick (2005) have aptly shown, law enforcement agents are surprisingly inaccurate in spotting false confessions. Kassin and colleagues (2005) recorded convicts confessing to the crime they had been convicted for and to the crime another convict had confessed to. Subsequently, a sample of experienced police officers was asked to identify convicts in a selection of the obtained recordings as guilty or innocent. Overall, the participants' accuracy in spotting false confessions was not much better than chance.

So far, race has not explicitly been linked to the detection of false confessions. While stereotyping and stereotype threat would certainly be relevant to this domain, I chose to examine the issue as one of social categorisation. This perspective on intergroup relations has been pioneered by Henri Tajfel who assumed that categorisation into different groups, be it nations, occupations, or races, was an essential part of how we define ourselves in a given situation. Together with his colleague Michael Billig, he demonstrated how this categorisation influences our judgement and behaviour. In order to test the effect of social categorisation unvarnished by pre-existing preconceptions, they created the *minimal group procedure*. In this approach, participants are divided into groups solely based on belonging to different categories of a trivial nature: participants are divided into groups based on the preference for a certain painting or even on the simple toss of a coin. Billig and Tajfel (1973) found participants to favour members of their group (their *in-group*) to members of another group (an *out-group*) when distributing money. This was remarkable as they were aware that the groups had been assigned by tossing a coin.

Using minimal groups, Cadinua and Rothbart (1996) found participants to assign similar traits to themselves as to other members of their in-group (self-anchoring). Members of out-groups, on the other hand, received trait ratings which were dissimilar or even opposed to the traits participants assigned to themselves (differentiation). For my study, I aimed to apply this idea to the detection of false confessions: as most people

can be expected to identify as law-abiding, moral citizens, I expected that they would extend this characterisation to confessors of their in-group. Therefore, I hypothesised that participants would more readily conceive of out-group members as guilty and, consequently, more often accept their (false) confessions. As judges (Federal Judicial Center, 2012) and jurors (Anwar, Bayer, & Hjalmarsson, 2012) are predominantly White, this would constitute a grave disadvantage for suspects of colour.

To test this hypothesis, I invited 33 students to group sessions of six to ten to participate in a study about “lie detection”. In order to create minimal groups, I asked each group to wear either blue or yellow headbands. After strengthening the group identity with a number of theatre exercises, participants were shown three pairs of videotaped confessions to norm-violating behaviours, ranging from cheating on an exam to bike theft. They were asked to judge which of the confessions in each pair was genuine. To compare the participants’ reaction to in-group and to out-group members, some of the videotaped confessors wore yellow and some blue headbands (cf. Figure 2).

Contrary to expectation, however, confessions by in-group members were believed as often as or even more often than those by out-group members. Yet, this was not necessarily conclusive evidence against social categorisation effects on the detection of false confessions. An alternative explanation for the results may lie in the experimental procedure: participants may have construed the task as one of assessing truth rather than of guilt and may have anchored their judgment of in-group members on the trait honesty. While participants indeed tended to believe confessions by in-group members more often than those by out-group members, this tendency was reversed for a confession-unrelated matter-of-fact statement in the control condition. This renders truth bias an unlikely alternative to the proposed guilt bias. An alternative explanation for the participants’ unexpected behaviour may have been that they had seen through the cover story of the experiment. Yet, a post-experimental questionnaire carefully probed for suspicions towards the true purpose of the experiment. Participants who suspected the true purpose of the experiment were excluded from the analysis. Finally, the unexpected results may also have resulted from the fact that the confessions in the experiments concerned only minor norm violations while real-life false confessions cases centre around felonies. Further research is necessary to arrive at a conclusive verdict.

Conclusions

Drawing back on established theories and paradigms from the psychology of intergroup relations, I presented three possible answers to the initial question of why people of colour are overrepresented among false confessors. First of all, the widespread stereotype of Black criminality may lead interrogators to readily assume guilt and to put more pressure to confess on the suspect. Secondly, suspects of colour may experience stereotype threat, making them seem more suspicious. Finally, social categorisation may lead police officers to display a guilt bias towards suspects of another ethnic group. Yet, only little research has been conducted to rigorously evaluate these approaches in the context of false confessions. Hence, further research is necessary to establish causes for the unjust disadvantage for people of colour in the domain of police interrogations.

Finding these causes is crucial as they could inform urgently needed legal reforms. Christian Swarns of the NAACP, the largest and oldest U.S. civil rights organisation, stresses the importance of fighting the imbalance of false convictions (Innocence Project, 2009, p. 17):

“For the African-American community, there are few things more tangible and immediately disruptive and damaging than the volume of black people that are swept into the criminal justice system and the collateral consequences that flow from incarceration.”

While some reforms have been suggested already, e.g. making juries ethnically more diverse (Taslitz, 2006), stereotypes of Black criminality are deeply ingrained in our culture and not easily changed. Yet, with regard to the working of stereotypes in police officers' decisions to shoot Black suspects, training programmes developed based on psychological research have shown promising results: educating police officers about potential biases and increasing cross-racial contact both reduced policing bias displayed in Correll's shoot/don't shoot game (Dixon, 2010). Perhaps, these and similar measures could have protected the five exonerees of the Central Park Jogger case from together spending 33.5 years of their youth in prison.

Glossary

Minimal Groups Paradigm: an experimental procedure in which intergroup discrimination is elicited through mere social categorisation

People of Colour: a term used to describe any person who is not white, emphasizing common experiences of racism

Policing Bias: existent when law enforcement officers make decisions based on implicit or explicit bias against a certain group

Psychology of Prejudice: an area of psychology concerned with prejudice in human feeling, thinking and behaviour

Social Categorisation: People are assigned to groups on the basis of outward appearance or other signs of group memberships. According to Henri Tajfel's social identity theory, prejudice is based on the enhancement of self-esteem by discrimination against out-groups (other nations, ethnic/religious groups, etc.)

Stereotype: culturally-shared, generalised expectations about the characteristics typically possessed by a member of a certain group

Stereotype Threat: apprehension experienced by members of a stereotyped group that their behaviour may confirm an existing cultural stereotype

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