

## Gisli Gudjonsson's Penchant for Corroboration

Robert Perske

Today, instructors in police academies never cease to hammer into the heads of recruit officers the proper steps needed for a successful criminal investigation:

1. Get evidence.
2. Get evidence.
3. Get evidence.
4. Get evidence.
5. Try for a confession.
6. Do everything possible to corroborate a confession.

Even so, some investigators—but not all—fail to follow these steps with persons who have intellectual disabilities. Some—but not all—misread the defendant's differences and come to believe, *really believe* that they “have the man.” Some—but not all—question them relentlessly for long hours until a confession is squeezed out of them. They do it even when no physical or witness evidence connects the person with a disability to the crime. Fortunately, in the last 10 years, interrogations leading to false confessions is being exposed to the light of day as never before.

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### America's Heightening Awareness of Actual Innocence

Law professor Steven Drizin and criminologist Richard Leo, the authors of the groundbreaking monograph, *The Problem of False Confessions in the Post DNA World* (2004), have shared their information on all persons who confessed to serious felonies and were later exonerated. After the publication of the book, Drizin, as legal director of The Center on Wrongful Convictions, based at the Northwestern School of Law, continued to build on the list he and Leo created. From 2004 to the present, Drizin has sent out a steady stream of weekly reports on fresh exonerations via the Internet to many of us who are deeply interested in this issue (Interested readers can contact him at s-drizin@law.northwestern.edu.)

It was from this rich treasure trove of acquittals

that I gleaned my annotated list of persons with disabilities who made false confessions (Perske, 2005). Their data-sharing led me to write the 2005 article. According to this earlier search, at least 38 persons with intellectual disabilities have now been proved innocent. The following update of my list shows that the number of exonerated people whom we work with and care about has climbed to 45. The number of individuals with disabilities on this list continues to increase every year.

These breakthroughs are not only happening because of the studiously detailed work of Drizin and Leo (2004) and the steady Listserve of messages from The Center on Wrongful Convictions at Northwestern School of Law. It is also being aided by the sociologist Ofshe and his colleagues (Ofshe & Leo, 1997a, 1997b) and psychologist Kassin (1997). Now another trail blazer from across the Atlantic Ocean is helping light the way.

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### Points Worth Pondering From England's Gudjonsson

Gisli Gudjonsson is a most remarkable man. After working as a young police officer in Reykjavik, Iceland, he moved to the United Kingdom in order to learn English. Later, he earned a doctorate and became a professor of forensic psychology at King's College, London, and one of the world's top forensic researchers and consultants. His writings touch me deeply because many of his points can be applied to the critical situations of persons with intellectual disabilities (Gudjonsson, 1992, 2003a, 2003b; see also Clare & Gudjonsson, 1993). A small sampling from his vast repertoire deserves special mention here. Interestingly, however, all of his key points that he has been refining through the years were richly described in his earliest book (1992).

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### Vigorous Corroboration

As a young detective with the Reykjavik (Iceland) Criminal Investigation Department, Gud-

jonsson became a stickler for verifying any confession that was uttered by a suspect. For example, he recalled how one man confessed to murder, but the weapon was not found. Consequently, he and his fellow officers sifted through refuse at the Reykjavik Corporation Rubbish Dump looking for the murder weapon. Finally, after 2 long days of rummaging through trash, they found it, enabling them to verify the confession (Gudjonsson, 1992, p. xi).

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### **Classifying Types of Confessions**

Gudjonsson (1992) vividly recalled how the first false confession he ever received came easily. All he did was confront a man regarding a certain crime. The suspect immediately said he must have committed it, even though he could not remember doing it. Later, Gudjonsson discovered that the man, though looking “normal,” possessed a psychological vulnerability (p. xi). This case and others prompted him to identify and classify false confessions. He discovered three basic categories:

- *Voluntary false* (such as the one described above)
- *Coerced-compliant* (trying to reduce the pressure by telling the interrogator what he or she wants to hear)
- *Coerced-internalized* (the suspect comes to believe that he or she really must have committed the crime) (pp. 234–259)

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### **The Guildford Four and the Birmingham Six**

On October 5, 1974, members of the Irish Republican Army (IRA) planted bombs in two pubs in Guildford, England (the Horse and Groom and the Seven Stars). Five persons were killed and 57 injured. A month later, a bomb exploded in The King’s Arms in Woolrich, South London, killing 2 and injuring 27. The explosions caused public outrage, and some 150 detectives went to work on the case. Four of the suspects who were rounded up confessed to the crimes. They were convicted and imprisoned. Even so, Gudjonsson, when asked to look at the case, joined others who eventually made it clear that the four had confessed to crimes they did not commit. After 15 years in prison they were exonerated and released.

In the case of The Birmingham Six, two pubs (the Mulberry Bush and the Tavern in the Town) were bombed in Birmingham on November 21,

1974, killing 21 and injuring 182. Six additional men were convicted due to confessions given in police interrogation rooms. They were convicted and imprisoned. After 17 years, their confessions were thrown out (Gudjonsson, 1992, pp. 260–273).

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### **Interrogation Bias**

The above cases serve as excellent examples of investigator bias. The police had to be outraged by these senseless bombings. Their rage may have colored their “will to believe” regarding who was really guilty or innocent. Gudjonsson (1992) pinpointed this cloudy dilemma:

Interrogation bias may result in police officers being particularly vigilant and receptive to information that is consistent with their prior assumptions and beliefs, whilst ignoring, minimizing or distorting information that contradicts their assumptions. Information that does not support the interviewer’s hypotheses may be erroneously interpreted as lies, misunderstanding, evasiveness or defensiveness. (p. 14)

According to Gudjonsson (1992), the stronger the interviewer’s prior assumptions and beliefs, the greater the interrogator’s bias.

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### **Measuring the Level of Suggestibility in Suspects Who Are Mentally Vulnerable**

Gudjonsson (1992) spent great amounts of time observing how some people in an interrogation room tend to internalize the suggestions of the interrogator and claim them as their own points of view. According to him, there are three types of interrogative suggestibility: responses to (a) negative feedback, (b) leading questions, and (c) repeated questions. These responses, of course, are the goals in any skilled interrogation. Even so, Gudjonsson began to wonder whether interrogative suggestibility could be reliably measured. He concluded that it could and developed an elaborate testing instrument, The Gudjonsson Suggestibility Scale, which can be used to measure degree of suggestibility of suspects (pp. 131–164).

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### **Measuring the Level of Compliance in Mentally Vulnerable Suspects**

Compliance is different from suggestibility. As Gudjonsson (1992) noted,

I offered a theoretical distinction between suggestibility and compliance. The main difference, it was argued, was that suggestibility, unlike compliance, implies personal acceptance of the

information provided or request made. . . . In its broadest sense, compliance refers to the tendency to go along with propositions, requests or instructions for some immediate instrumental gain. (pp. 137–141)

The immediate gain for persons with intellectual disabilities that I have known is to find a way to get out of that pressure cooker of an interrogation room. First, they try to do anything possible to please the police officer. Second, they do everything possible to avoid conflict or confrontation with him or her (Gudjonsson, 1992, pp. 138–139).

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### Concerns Over the Use of Trickery to Get a Confession

Gudjonsson (1992) is critical of police trickery techniques. He eschews lies by the police who claimed to have physical or witness evidence that implicated the accused in the crime. He is disdainful of interrogator's dual "Mutt and Jeff" antics. He feels that "police trickery and deception deprives suspects of the opportunity of making informed and rational decisions about their right not to incriminate themselves" (p. 294–295).

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### Dependence on Superstar Interrogators

Gudjonsson (1992) noted that

Every police officer has heard of a "macho star performer" who had a reputation for being able to obtain a confession from even the most resistant suspect! . . . The problem with interviewing as an art is that it undermines professionalism and objectivity. A successful police force cannot rely on the intrinsic quality of individual "star performers." What is required is an interaction between theory and practice, with emphasis on awareness, objectivity, hypothesis testing, training, quality control evaluation and research. The objective should be that every police officer views these qualities as being within his or her reach, subject to training. Knowledge about skillful interviewing and appropriate training must not be confined to a few educated senior officers. (p. 331)

Gudjonsson feels strongly that the heyday of such artistic confession-gatherers must end. He argued that good police investigation is not an art. It is a thorough-going science.

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### Conclusion

These points only touch the surface of Gudjonsson's vast experience as a law officer and a clinician. From them, however, one can sense that he

is a diligent and passionate man. He is diligent at getting down to fine details within the criminal justice system's functioning. He is passionate about finding the truth. Passionate persons such as Gudjonsson discover fresh truths that ordinary persons never even begin to see. Because Gudjonsson's influence, the people we work with and care about will come closer to receiving the same justice that all American citizens are entitled to receive.

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