

Ideas & Trends

Why Confess to What You Didn't Do?

By SUSAN SAULNY

IN the spring of 1989, with racial tension incendiary and random crime rampant in New York City, a pack of bored Harlem schoolboys went to Central Park looking for trouble. They found it. Five of the teenagers were convicted and sentenced to prison for the gang rape and brutal beating of a 28-year-old investment banker who was jogging after work.

Last week, the Manhattan district attorney, Robert M. Morgenthau, asked a court to vacate the convictions of the five, who were sent to prison largely on the strength of their own videotaped confessions.

The latest twist in the Central Park jogger case raises many troubling questions, not the least of which is, what actually happened in the interrogation rooms that produced those five confessions, which provided the backbone for prosecuting the five teenagers?

On tape, the youths, now in their late 20's, told how they kicked and fondled the jogger and beat her with a pipe. They incriminated each other, but none admitted to having personally committed the rape itself. Two juries convicted all five of involvement in the attack.

If Justice Charles J. Tejada of State Supreme Court

One way to guard against false admissions that put five men in a legal limbo.

in Manhattan agrees with Mr. Morgenthau and dismisses the charges, the young men may find themselves in an unusual limbo between innocence and guilt.

Even if Mr. Morgenthau were inclined to do so, he is not empowered to exonerate them officially. The prosecution's review of the case recommended dismissal of all the charges — of rioting, robbery and assault — that stemmed from the night of their so-called wilding, on a legal technicality.

But it does appear that new evidence, a confession from Matias Reyes, a serial rapist and murderer, that is backed by a DNA match, undermines the original theory that the five youths were guilty of the most heinous act of that night, the brutal rape that indelibly linked their names to a case that came to symbolize a city out of control.

If the convictions are vacated, the men might seek damages in civil court for wrongful conviction, although the burden of proof is high and is complicated by the fact that they confessed.

"Perhaps the most persuasive fact about the defendants' confessions is that they exist," Nancy E. Ryan, Mr. Morgenthau's chief of trials, wrote in last week's 58-page report. She continued: "The significant weaknesses in the defendants' statements lie in the details they provide in describing the attack on the jogger."

The gruesome details were often wildly inaccurate and inconsistent about "who initiated the attack, who knocked the victim down, who undressed her, who



Associated Press

Four of the five suspects of the Central Park jogger case, in images from the 1989 police videotapes. From top: Kharey Wise, Antron McCray, Raymond Santana and Kevin Richardson.

struck her, who held her, who raped her, what weapons were used in the course of the assault," Ms. Ryan wrote. Still, with no other suspect emerging, much of what the teenagers said seemed true, and juries overlooked the inconsistencies — inconsistencies that may seem unsurprising in a rampage during a night of mayhem.

But if the convictions are ultimately thrown out, what does that say about the ease with which investigators can persuade an innocent person to confess?

"Reform in this area has been extremely slow in coming because law enforcement generally have refused to acknowledge that their interrogation techniques themselves can produce false confessions," said Steven A. Drizin, a professor at Northwestern University School of Law.

More verdicts are being reversed every year because of advances in the use of DNA evidence. As a result, there may have been more research in the area of false confession in the last 10 years than in the previous century.

The very nature of interrogation is antagonistic, accusatory and focused on leading questions rather than on open lines of inquiry. Many of those methods have been upheld by the courts. Interrogators sometimes lie. They claim to have evidence that they don't really have or confessions from accomplices. The more compliant, naïve or cowed by authority a suspect is, the more likely that person is to confess — honestly, or falsely.

Suspects who are young or mentally ill are particularly vulnerable to pressure.

"There are legions of cases of people without disabilities who have falsely confessed over time as a result of highly coercive police interrogation techniques," Professor Drizin said.

One youth, Kharey Wise, had a second-grade reading level at age 16. Another, Antron McCray, had an I.Q. of 87 in the ninth grade.

One change that critics of the system often advocate is that confessions be recorded in full.

"More than any other case, the Central Park jogger case underscored the need to videotape the entire interrogation process," Professor Drizin said. Confessions videotaped only at the tail end of interrogation lead to conviction in almost every case, he added. "It's a myth to think that getting a suspect to recap a confession on videotape after dozens of hours of intense interrogation is putting the truth before a jury, because one can't evaluate a confession without seeing the context in which it was taken."

The defendants in the jogger case were put on camera after they had been in custody, in some cases, for as long as 28 hours. And time, according to Saul Kassin, a professor of psychology and the chairman of legal studies at Williams College, is "the invisible force" that operates in the interrogation room.

"I have not seen the police take a false confession in an hour," he said. "In the jogger case, those boys were interrogated from between 14 and 30 hours, and that's over the top. What happens over time is that the suspect gets tired, and there is an intensification of techniques. The suspect is getting the message that denial is not the escape, so they offer something else."

Professor Kassin said that when false confessors are later asked why they confessed, the No. 1 answer is "something like 'I just wanted to go home.'"