

## **East Valley Bar Association August 19, 2011—CLE “Innocent Until Interrogated” False Confessions and Lessons of the Arizona Buddhist Temple Massacre**

Police-induced confessions are part of Arizona’s and America’s national dilemma—how can we avoid convicting the innocent while at the same time investigate and prosecute the guilty? Why would an innocent person confess to any crime, especially a horrific massacre of nine holy people in a temple? The true story of how and why the Maricopa County Sheriff’s Office coerced five men into giving false confessions in two seemingly unrelated 1991 murder cases will serve as the launching pad for CLE Book Club’s discussion of these important questions. The May 4, 2011 en banc opinion of the U.S. Court of Appeals for the Ninth Circuit, granting habeas relief to the only person tried in the Buddhist Temple case “might” be reviewed on certiorari to the US Supreme Court. The petition was filed in August, 2010 and a decision on whether to accept the writ is expected on the First Monday of October, at the start of the upcoming term.

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## Epigram

“The fascination that the police have for the thief is manifested by the thief’s temptation to confess when he is arrested. In the presence of the examining magistrate who questions him, he is seized with giddiness: the magistrate speaks gently to him, perhaps with kindness, explaining what is expected of him; practically nothing: an assent. If only once, just once, he did what was asked of him, if he uttered the “yes” that is requested, harmony of minds would be achieved. He would be told, “That’s fine,” perhaps he would be congratulated. It would be the end of the hatred. The desire to confess is the mad dream of universal love; it is, as Genet himself says, the temptation of the human.”  
*Jean-Paul Sartre*<sup>1</sup>

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<sup>1</sup> Jean-Paul Sartre (b. June 21, 1905—d. April 15, 1980; French existentialist, philosopher, playwright, novelist, screenwriter, political activist, biographer and literary critic; awarded the 1964 Nobel Prize in Literature but refused the honor.

## Synopsis

### *“Innocent Until Interrogated—The Story of the Arizona Buddhist Temple Massacre and the Tucson Four”<sup>2</sup>*

Two dysfunctional juveniles invaded a Buddhist Temple west of Phoenix Arizona on August 10, 1991, in what they called a “war game.” *Wat Promkunaram* was a temple to its members and a monastery for six Thai monks, an elderly nun, her seventeen-year-old grandson, and a young acolyte. The boys roused everyone from their monastic cells, forced them to kneel with their hands clasped behind their necks, facing one another in a rough circle. After spending hours ransacking the Temple and goading the monks, one of the boys, armed with a Marlin .22 caliber semi-automatic rifle, walked slowly around the circle, shooting each victim at muzzle length in the back of the head. The other boy, armed with a Stevens .20 gauge shotgun, blasted the group from a distance of ten feet. They had agreed that they would “leave no witnesses.”

After desecrating the Temple with trash talk and fouling the air with their cigarettes, they carved the word “Bloods” into the wall, loaded the monk’s meager possessions into duffle bags, and escaped. They disguised themselves in Army surplus battle-dress uniforms, complete with snow boots, dark-tinted tank goggles worn over snow masks, and fur-lined hoods. After splitting up the loot in a near-by desert wash, they went to *Sonic, America’s Drive-In*, for thirst busters and fries.

Killing nine people was not quick or easy. The crime-scene photos show entangled bodies in pools of shared blood, surrounded by overturned furniture, trashed cabinets, cut phone lines, and overflowing ashtrays, amid seventeen spent brass casings, and four ruptured shotgun cartridges. The Thai victims were deeply religious, and each died as they had lived, in prayer and at peace. Unlike their killers, these monks had the intellectual capacity, and the moral courage, to withdraw from life with dignity.

The Maricopa County Sheriff’s office quickly announced the formation of a “Multi-Agency Major Crimes Task Force” to investigate Arizona’s first mass murder, and the first in the world where the victims were Thai Buddhist monks. Under intense political and media pressure, it mushroomed to sixty-five officers employed by a dozen different police agencies. Most of them did not play well together. Thirty days after its formation, the task force did not have a single suspect.

On September 10, 1991, two new leads came in. One was an anonymous tip from a patient in the *Tucson Psychiatric Institute*. With a little help from task force detectives, he came to believe that he and four of his friends from South Tucson had killed the monks. With a lot of help from him, the detectives rounded up his friends, interrogated them for two and one-half days, and managed to extract confessions out of four of the five. The “*Tucson Four*,” as they came to be known nationwide, gave detailed confessions during a two-day, non-stop interrogation conducted by tag-teams of investigators. They were booked, jailed, and arraigned before magistrates, but quickly recanted their confessions. Two months after the killings, the real killers were caught when the murder weapon was tested. The Maricopa County Attorney released the Tucson defendants and charged the Avondale defendants with the same crimes.

The testing of the murder weapon came about through a comedic series of errors, starting with the other lead that had come into task force headquarters; the discovery of a .22 caliber rifle in West Phoenix. No one tested the murder weapon for forty-four days (from Sep 10 to October 24, 1991) because they were preoccupied with the mental patient from Tucson and his four friends. When they finally tested the gun, it led quickly to three juveniles from Avondale on October 25, 1991, who became obvious suspects, because they fit the FBI’s profile of “local youths and stupidity.”

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<sup>2</sup> The University of Arizona Press © 2010 Gary L. Stuart. ISBN 978-0-8165-2924-7

The Avondale juveniles, Allesandro “Alex” Garcia and Johnathan Andrew Doody, waived their juvenile Miranda rights, underwent intensive interrogation, confessed, and were booked on the same charges leveled at the Tucson Four six weeks earlier. Each group denied the existence of the other. Whether true or false, all six confessions were psychological root canals.

A second, seemingly unrelated murder occurred north of Phoenix on October 18, 1991, when someone shot Alice Marie Cameron twice in the back with a nine-millimeter handgun at a remote campsite. Though no one connected the Cameron murder to the killings of the Buddhist monks, the same detectives led both investigations, and managed both crime scenes, and latched onto two mental patients (Mike McGraw and George Peterson) like softballs hit directly to second base. Mike McGraw was a patient in a mental hospital when he called the police and George Peterson was on his way to see his psychiatrist at the VA Hospital when he voluntarily answered their initial questions. At the time, no one noticed that the detectives in both cases began with mental patients and ended with false confessions. In retrospect, it was no surprise.

Fifteen months later, Alex Garcia, *also* confessed to killing Alice Marie Cameron. The County Attorney immediately freed Peterson, just as he had earlier voluntarily released Bruce, McGraw, Nunez, and Parker in the Temple case. All five false confessors in both cases sued everyone in sight. The state had a reasonably decent case against Garcia, with some corroborating evidence, but a thin case against Doody, unless they could secure favorable testimony from Garcia against Doody. The County Attorney offered a favorable plea bargain to Alex Garcia, who was involved in both cases, and pressed forward with a death-penalty trial for Doody, who was only involved in one of the two cases. Alex testified against his high school classmate in the first case, and against his girlfriend in the second case, thus earning the plea he bargained for in ten murders.

In the end, almost everyone came to believe that the Tucson Four and George Peterson’s confessions were false, coerced, and well beyond the pale of “good” police conduct. The frenzy to get a confession consumed the interrogators and disembodied the suspects. No one made the connection between Alice Cameron’s murder and the slaughter of the Buddhist monks in time to save her life, because routine police work was put on hold, while the MCSO’s confessional teams, extracted false confessions from innocent suspects without hard evidence, ignored valuable clues, and dispositive evidence, all the while giving mere lip service to the presumption of innocence.

*Innocent Until Interrogated* is about patently false confessions, grisly crime scenes, and the political and legal second-guessing that consumed Phoenix and Bangkok in 1991. The Maricopa County Attorney’s Office wrestled with the nightmare of psychologically manufactured confessions, lack of corroborating evidence, and international media frenzy over the massacre of nine Thai Buddhists, not to mention the unnecessary killing of Alice Marie Cameron. It came to the right decision in both cases—it dismissed the charges against the Tucson Four and George Peterson.

The narrative weaves the Temple and Cameron cases, explores how, and why prosecutors dismissed all charges against the Tucson Four, and George Peterson, while detailing the psychological and emotional terror used to extract false confessions. It covers the debatable plea bargain made with Alex Garcia, which spared him the death penalty, but failed to garner a death penalty for Doody. The narrative also explores the many connections between the arguably true confessions and the patently false confessions. Lastly, the narrative connects Doody’s true confession to the four false confessions, because all six were accepted in evidence at Doody’s trial even though he was the only one *on* trial.

Garcia’s initial version of his plea bargain was that the MCSO promised to send him to prison for no more than eleven years if he would testify against Doody, *and* the Tucson Four. Of course, only the County Attorney can negotiate plea bargains and the record is clear that the only promise given to

Garcia was to take the death penalty off his table, if he would testify against Doody in the Temple case, *and* his former girl friend (fourteen-year old Michelle Hoover) in the Cameron case. The fact that Garcia had murdered ten people was less important than getting him to testify against his roommate and his girlfriend because convictions in both cases were doubtful *without* Garcia's testimony.

Actual court transcripts, secret audio tapes, official investigative reports, photo lineups, and crime scene forensics bring to life Doody's three-month-long trial. Instead of just focusing on Doody's conduct, his lawyer also introduced the confessions of the Tucson Four, none of whom were "on" trial. The trial and the confessions of all six young men, explain how and why four of them confessed to a brutal and senseless massacre they did not commit, while the MCSO tried to get the other two to implicate them in the absence of any physical or direct evidence of guilt. Doody's trial was a startling revelation of what actually happened in the Temple and presented the possibility that the prosecutors tried the wrong man.

The dialogue of the actual interrogation sessions shows the psychological underpinnings that explain how the false confessors from Tucson knew the intimate details given in their confessions about a crime scene they had never visited. Why would they implicate one another when none of them was guilty of anything? The narrative includes an apt, but brief explanation of the law and the psychology of false confessions by contrasting the secret MCSO tape recordings against established norms for custodial interrogation.

Both stories dissect the Major Crimes Multi-Agency Task Force's instability, incompetent leadership, and the infectious "get 'em, trash 'em, and lock 'em up" mentality. The easy path taken to get a confession from a mental patient, George Patterson, while avoiding the investigation that would have easily identified Garcia as the real killer in the Cameron case, haunted the Sheriff's office for a long time. This true story of media-driven investigations and police-induced confessions is a shocking example of the hysteria that too-often ends in convicting the innocent, rather than trying the guilty.

The book's arc is the national problem of convicting the innocent and allowing the guilty to remain in the shadows. The larger questions that heighten the arc are the unreliability of eyewitness identification, the inconsistency of DNA sampling, conscious attempts to avoid *Miranda*, race-based prosecution, attacking terrorism by minimizing civil liberties, and selective prosecutorial discretion. Each, to one degree or another, impacts the social consequences of convicting innocent people of crimes they did not commit.

Confessions, true or false, are still the *Queen of Proofs* in criminal trials. If they had lesser value, say about a four of clubs, then police and prosecutors would not work so hard to get them, crime victims would not anguish when false confessors are vindicated, and political ideologues would find other causes to roil. Decreased reliance on coercive custodial interrogation would return the high ground to hard working police officers in the fight against real crime, while allowing prosecutors to focus on real criminals. Judges would no longer cringe and juries would no longer frown at coercive confessions. Insurance companies could reduce premiums for public agencies in their losing battle against false arrest suits. The *Fifth Amendment* privilege against self-incrimination would be meaningful in the police station, as well as in court.

*Innocent Until Interrogated* is a story that begs to be told for its own sake. But the moral of the story is a larger truth. Far too many Americans blissfully continue to believe that they are too smart and too strong to confess to a crime they did not commit. After reading this book, most readers will think again, and if ever faced with confrontational interrogation, will remember that they have a right to remain silent.

## Important Legal Opinions and Statutes

### Anti-Terrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. & 2254(d)

Overview: A defendant can prevail in federal court on appeal of a state court murder conviction only if he can show that the state court's adjudication of his claim (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an objectively unreasonable determination of the facts in light of the evidence presented in the state court proceeding.

### Arizona v. Edwards, 111 Ariz. 357, 529 P.2d 1174 (1974)

In Arizona, confessions are prima facie involuntary and the burden is on the state to show that the confession was freely and voluntarily made. If the defendant's will has been overborne, and his capacity for decision diminished, then the use of his confession is violative of the principles of due process.

### Arizona v. Fulminante, 499 U.S. 279 (1991)

Juvenile confessions, obtained during custodial interrogation, are inherently suspect and must be carefully assessed for voluntariness.

### Berkemer v. McCarty, 468 U.S. 420, (1984)

Miranda warnings and the suspect's waiver of rights do not dispense with the voluntariness inquiry, which must be conducted by courts prior to admitting an inculpatory statement.

### Brown v. Mississippi, 297 U.S. 278 (1936)

Confessions procured by means revolting to the sense of justice cannot be used to secure a conviction in a court of law.

### Bruton v. United States, 391 U.S. 123, (1968) (White, J., dissenting)

A confession is like no other evidence and is probably the most probative and damaging evidence that can be admitted against a defendant. In the case of a coerced confession, the risk that the confession is unreliable, coupled with the profound impact that the confession has upon the jury, requires a reviewing court to exercise extreme caution before determining that the admission at trial was harmless.

### Colorado v. Connelly, 479 U.S. 157 (1986)

Coercive police activity is a necessary predicate to a finding that a confession was not given voluntarily.

### Cooper v. Dupnik, 963 F.2d 1220 (9<sup>th</sup> Cir., 1992, on appeal from U.S. District Court for the District of Arizona)

Extraction of a statement under physical or psychological coercion violates due process and the right to remain silent. Law enforcement officers must not deliberately turn *Miranda* warnings into mere formalities or deliver them as a psychological ploy designed to make the suspect ignore the warnings. Nor may they comply with *Miranda* in form only, while ignoring its spirit and substance.

### Culombe v. Connecticut, 367 U.S. 568 (1973)

Confessions must be the product of an essentially free and unconstrained choice by the suspect. If not, the suspect's capacity for self-determination has been critically impaired and the use of his confession offends due process of law.

Dickerson v. United States, 530 U.S. 428 (2000)

The historic *Miranda* decision is a “constitutional decision” of the Supreme Court and as such, it cannot be abrogated by state legislatures or the federal congress. A coerced confession is an involuntary confession; accordingly, its admission in evidence against the accused is a due process violation under the Fourteenth Amendment.

Gallegos v. Colorado 370 U.S. 49, (1962)

A teenager may not on his own be able to fully appreciate what is at stake when the police seek to question him.

Gilbert v. Merchant, 488 F.3<sup>rd</sup> 780 (7<sup>th</sup> Cir. 2007)

Even where juvenile suspects agree to custodial interrogation without the presence of a parent or friendly adult, the absence of a friendly adult is a factor in assessing the voluntariness of a juvenile’s confession.

Haley v. Ohio, 332 U.S. 596 (1948)

Numerous cases recognize the coercive potential in unbroken hours of custodial interrogation of a juvenile, particularly when they take place overnight.

In Re Gault, 387 U.S. 1, (1967)

The Supreme Court has long recognized that admissions and confessions by juveniles require special caution.

Miranda v. Arizona, 384 U.S. 436 (1966)

In order to combat the inherent pressures in custodial interrogation, and to permit a full opportunity to exercise the privilege against self-incrimination, suspects must be adequately and effectively apprised of their rights and the exercise of those rights must be fully honored. These rights include the right to counsel and the right to remain silent. The warning that a suspect has a right to remain silent is an absolute prerequisite in overcoming the inherent pressures of the interrogation atmosphere. It is not just the subnormal or woefully ignorant who succumb to an interrogator’s imprecations, whether implied or expressly stated, that the interrogation will continue until a confession is obtained.

Missouri v. Seibert, 542 U.S. 600, plurality opinion (2004)

Giving the *Miranda* warnings and getting a waiver from the suspect has too often produced a virtual ticket of admissibility because state courts rarely find a confession inadequate or involuntary following adequate warnings.

Moore v. Czerniak, 534 F.3<sup>rd</sup> 1128 (9<sup>th</sup> Cir. 2008)

A taped recording of a defendant’s confession, taken with all the requisite formalities by police officers, and played to a jury that hears the defendant’s confession in the defendant’s own words, and from his own lips, will have a particularly prejudicial impact on the defendant.

Oregon v. Elstad, 470 U.S. 298 (1985)

*Miranda* established an irrebuttable presumption of coercion for statements made during custodial interrogation by suspects who were not given the *Miranda* warnings.

Roper v. Simmons, 543 U.S. 551 (2005)

Juvenile suspects have unique vulnerabilities and must be treated with special caution when assessing statements made during custodial interrogation.

Schneckloth v. Bustamonte, 412 U.S. 218 (1973)

The due process protection is embodied in a voluntariness inquiry that asks whether a defendant's will was overborne by looking at the totality of circumstances surrounding the taking of a confession.

Withrow v. Williams, 507 U.S. 680 (1993)

Assessing the totality of the circumstances surrounding the taking of a confession should include consideration of the interrogation's length and location; evaluation of the suspect's maturity, education, physical and mental condition; and determination of whether the suspect was properly advised of his Miranda rights.

## Abstracts—Significant Cases and Scholarly Work

**Doody v Arizona (Arizona Court of Appeals—Sep. 5, 1996)**

**(Doody's conviction upheld—Miranda compliant—confession voluntary)**

*187 Ariz. 363, 930 P.2d 440, 1996 Ariz. App. LEXIS 188*

STATE OF ARIZONA, Appellee, v. JOHNATHAN ANDREW DOODY, Appellant.

1 CA-CR 94-0120

COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A

187 Ariz. 363; 930 P.2d 440; 1996 Ariz. App. LEXIS 188; 224 Ariz. Adv. Rep. 65

September 5, 1996, Filed

**SUBSEQUENT HISTORY:** Petition for Review Denied on January 14, 1997, by Arizona Supreme Court CR 96-0600-PR. Certiorari Denied June 16, 1997.

**PRIOR HISTORY:** [1] Appeal from the Superior Court of Maricopa County. Cause No. CR 92-01232. The Honorable Gregory H. Martin, Judge.

**DISPOSITION:** AFFIRMED

### CASE SUMMARY

**PROCEDURAL POSTURE:** Defendant appealed his convictions and sentences in the Superior Court of Maricopa County (Arizona) for nine counts of first-degree murder, nine counts of armed robbery, one count of burglary, and one count of conspiracy to commit armed robbery.

**OVERVIEW:** On appeal after defendant's convictions, the court held that despite the length of the interrogation, defendant confessed voluntarily. Although the entire interrogation lasted approximately 13 hours, defendant admitted many portions of the crime earlier in the interrogation. Defendant did not wish to have his parents present, thus, the lack of parental involvement did not invalidate the interrogation or confession. The police officers did not act in violation of the law in getting defendant to confess. Defendant was advised of his Miranda rights in a clear and understandable manner and made a

knowing and intelligent waiver. The trial court did not exclude any evidence regarding the environment surrounding defendant's confession, thus the trial court complied with case law. Defendant's cross-examination of a witness was properly limited to exclude details of separate crimes allegedly committed by the witness because they bore no relation to the witness' character for truthfulness. The trial court did not err in refusing to grant immunity to a second witness because there was no prosecutorial misconduct or a showing that the witness would present clearly exculpatory evidence.

**OUTCOME:** The court affirmed defendant's conviction and sentence for murder, armed robbery, burglary, and conspiracy to commit armed robbery.

**CORE TERMS:** confession, interrogation, temple, murder, questioning, juvenile, voluntariness, warning, sworn statement, cross-examination, tape, investigators, circumstances surrounding, admissibility, admissible, audio, suppression hearing, rifle, interview, totality, bias, plea agreement, death penalty, impeachment, questioned, detectives, burglary, inadmissible, evidentiary, credibility

**LexisNexis(R) Headnotes** ♦

**COUNSEL:** Grant Woods, The Attorney General by Paul J. McMurdie, Chief Counsel, Criminal Appeals Section and Crane McClennen, Assistant Attorney General, Attorneys for Appellee, Phoenix.

Dershowitz & Eiger, P.C. by Victoria B. Eiger and Nathan Z. Dershowitz, New York, NY and Alan M. Dershowitz Cambridge, MA and Peter Balkan, Attorneys for Appellant, Phoenix.

**JUDGES:** Ruth V. McGregor, Judge. **CONCURRING:** Sheldon H. Weisberg, Presiding Judge, Philip E. Toci, Judge.

**OPINION BY:** RUTH V. MCGREGOR

**Doody v Ryan—Reversal by Ninth Circuit [en banc]—May 4, 2011  
(Doody's conviction reversed—Not Miranda compliant—Confession not voluntary)**

*Doody v Ryan, 2011 U.S. App. LEXIS 9102*

JOHNATHAN ANDREW DOODY, Petitioner-Appellant, v. CHARLES L. RYAN; MEGAN SAVAGE;  
ATTORNEY GENERAL OF THE STATE OF ARIZONA, Respondents-Appellees.

No. 06-17161

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

2011 U.S. App. LEXIS 9102

May 4, 2011, Filed

**PRIOR HISTORY: [\* 1]**

On Remand from the United States Supreme Court. D.C. No. CV-98-00528-EHC.  
[Ryan v. Doody, 131 S. Ct. 456, 178 L. Ed. 2d 282, 2010 U.S. LEXIS 8063 \(U.S., 2010\)](#)  
[Doody v. Schriro, 596 F.3d 620, 2010 U.S. App. LEXIS 3937 \(9th Cir. Ariz., 2010\)](#)

## CASE SUMMARY

**PROCEDURAL POSTURE:** On remand from the United States Supreme Court was defendant's claim that his confession to participating in the murder of nine individuals was inadmissible because the Miranda advisements he was given were inadequate and that his confession was involuntary.

**OVERVIEW:** Defendant's interrogation began at 9:25 p.m. and concluded at 10:00 a.m. the next day. Prior to commencing the interrogation, a detective purported to advise defendant, a juvenile, of his constitutional rights as required by Miranda. His recitation of Miranda's basic warnings consumed 12 pages of transcript, largely a by-product of the detective's continuous usage of qualifying language. In its analysis of the adequacy of the Miranda warnings, the Arizona Court of Appeals concluded that the officers advised defendant of his Miranda rights in a clear and understandable manner and that defendant made a knowing and intelligent waiver. However, the detective's administering of the Miranda warnings was far from clear and understandable. The Arizona court completely failed to consider the detective's significant deviations from the printed Miranda form and his repeated minimizing of the warnings' significance. The implication from the improperly qualified, unclear, and confusing warning was that defendant only had the right to counsel if he were involved in a crime. Defendant's invocation of his right to counsel would have been tantamount to admitting his involvement in the crime.

**OUTCOME:** The denial of the writ of habeas corpus was reversed. The case was remanded to grant the habeas petition unless the State of Arizona elected to retry defendant within a reasonable time.

## Abstract of in-press White Paper—Police Induced Confessions—Risk Factors and Recommendations—2009

In-Press article—White Paper—American Psychology—Law Society—2010 <http://www.ap-ls.org/>

By *Saul M. Kassin* (John Jay College of Criminal Justice); *Steven A. Drizin*, (Northwestern University School of Law and Center on Wrongful Convictions), *Thomas Grisso*, (University of Massachusetts Medical School); *Gisli H. Gudjonsson*, (Institute of Psychiatry, King's College, London); *Richard A. Leo*, (University of San Francisco School of Law); *Allison D. Redlich* (State University of New York at Albany).

### Abstract

Recent DNA exonerations have shed light on the problem that people sometimes confess to crimes they did not commit. Drawing on police practices, laws concerning the admissibility of confession evidence, core principles of psychology, and forensic studies involving multiple methodologies, this White Paper summarizes what is known about police-induced confessions. In this review, we identify suspect characteristics (e.g., adolescence; intellectual disability; mental illness, and certain personality traits), interrogation tactics (e.g., excessive interrogation time; presentations of false evidence; minimization), and the phenomenology of innocence (e.g., the tendency to waive *Miranda* rights) that influence confessions, as well as their effects on judges and juries. This article concludes with a strong

recommendation for the mandatory electronic recording of interrogations and considers other possibilities for the reform of interrogation practices and the protection of vulnerable suspect populations.

## Abstract—62 Stan. L. Rev. 1015 (2010) The Substance of False Confessions.

### THE SUBSTANCE OF FALSE CONFESSIONS

Brandon L. Garrett

A puzzle is raised by cases of false confessions: How could an innocent person convincingly confess to a crime? Postconviction DNA testing has now exonerated over 250 convicts, more than forty of whom falsely confessed to rapes and murders. As a result, there is a new awareness that innocent people falsely confess, often due to psychological pressure placed upon them during police interrogations. Scholars increasingly examine the psychological techniques that can cause people to falsely confess and document instances of known false confessions. This Article takes a different approach, by examining the substance of false confessions, including what was said during interrogations and how the confession statements were then litigated at trial and postconviction. Doing so sheds light on the phenomenon of confession contamination. Not only can innocent people falsely confess, but all except two of the exonerees studied were induced to deliver false confessions with surprisingly rich, detailed, and accurate information. We now know that those details could not have likely originated with these innocent people, but rather must have been disclosed to them, most likely during the interrogation process. However, our constitutional criminal procedure does not regulate the postadmission interrogation process, nor do courts evaluate the reliability of confessions. This Article outlines a series of reforms that focus on the insidious problem of contamination, particularly videotaping interrogations in their entirety, but also reframing police procedures, trial practice, and judicial review. Unless criminal procedure is reoriented towards the reliability of the substance of confessions, contamination of facts may continue to go undetected, resulting in miscarriages of justice.

### Recommended Journal Articles

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Mike Sager, *Scary Monsters and Super Freaks: Stories of Sex, Drugs, Rock 'n' Roll and Murder* (Thunder Mouth Press, 2003)

Barry Scheck, Peter Neufeld, and Jim Dwyer, *Actual Innocence: Five Days to Execution and Other Dispatches from the Wrongly Convicted* (Doubleday, 2000)

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Timothy Sullivan, *Unequal Verdicts: The Central Park Jogger Trials. The Notable Trials Library*, First Ed. NY, 1994)

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Welsh White, *Miranda's Waning Protections: Police Interrogation Practices after Dickerson* (University of Michigan Press, 2001)

Tom Wells and Richard Leo, *The Wrong Guys—Murder, False Confessions, and the Norfolk Four*, (New Press, 2008)

## Internet Links

Center on Wrongful Convictions: <http://www.law.northwestern.edu/cwc/>

The Innocence Project: <http://www.innocenceproject.org/understand/False-Confessions.php>

The Arizona Innocence Project: <http://www.azjusticeproject.org/>

Innocent Until Interrogated—The Story of the Buddhist Temple Massacre and the Tucson Four:  
<http://innocentuntilinterrogated.com>

Wikipedia on False Confessions: [http://en.wikipedia.org/wiki/False\\_confession](http://en.wikipedia.org/wiki/False_confession)

Important new nonfiction—false confessions

[http://www.rorotoko.com/index.php/article/gary\\_stuart\\_interview\\_innocent\\_until\\_interrogated\\_buddhist\\_temple\\_massacre/](http://www.rorotoko.com/index.php/article/gary_stuart_interview_innocent_until_interrogated_buddhist_temple_massacre/)

## Gary L. Stuart Bio

Stuart earned degrees in business and law at the University of Arizona, graduated in the top ten-percent of his law school class, and served as an editor of the *Arizona Law Review*. He was a partner in Jennings, Strouss, & Salmon, one of Arizona’s largest law firms, for thirty years. Early in his career, he began to teach, write, and lecture at both the local and national levels. Along the way, he acquired professional recognition by making the “Hallmark” lists at the top of his profession, including *Who’s Who in American Law* (First Edition), Martindale-Hubbell’s *A-V Preeminent American Lawyers*, Woodward & Whites’ *Best Lawyers in America*, and *Arizona’s Finest Lawyers*. He tried over 100 jury cases to a conclusion and earned the rank of Advocate as a juried member of the American Board of Trial Advocates. The Arizona State Bar certified him as a Specialist in trial practice. The National Institute of Trial Advocacy honored him with its *Distinguished Faculty* designation in 1994. Stuart completed an eight-year term on the *Arizona Board of Regents*, and served as President in 2004-2005. He was inducted into the Maricopa County Bar Association’s *Hall of Fame* on October 20, 2010.

He has written scores of law review and journal articles, op-ed pieces, essays, stories, over fifty CLE booklets, and six books: *“The Ethical Trial Lawyer,”* State Bar of Arizona, 1994; *“Litigation Ethics,”* Lexis-Nexis Publishing, 1998; *“The Gallup 14,”* a novel, University of New Mexico Press, 2000; *“Miranda—The Story of America’s Right to Remain Silent,”* University of Arizona Press, 2004, *“AIM For The Mayor—Echoes from Wounded Knee,”* a novel, Xlibris Publishing, 2008, and *“Innocent Until Interrogated—The Story of the Buddhist Temple Massacre and the Tucson Four.”* University of Arizona Press, 2010.

He served as Adjunct Faculty at the *James E. Rogers College of Law* from 2000 to 2005. He is the *Senior Policy Advisor* and Adjunct Professor of Law at ASU’s *Sandra Day O’Connor College of Law*, practices law part time, and is a frequent CLE lecturer in ethics, trial advocacy, and legal writing.