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Murder Must Memorize

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Abstract

Memory reports usually provide the evidence that is most determinative of guilt or innocence in criminal proceedings—including in the most serious proceedings, capital murder trials. Thus, memory research is bedrock science when it comes to the reliability of legal evidence, and expert testimony on such research is a linchpin of just verdicts. This principle is illustrated with a capital murder trial in which several of the most powerful forms of memory distortion were present (e.g., phantom recollections, robust interrogation methods that stimulate false self-incrimination). A key question before the jury, whether to regard the defendant's confession as true or false, turned on a theoretical principle that is used to explain memory distortion in the laboratory, the verbatim-gist distinction, and on research showing that it is possible to create false memories that embody the gist of experience. The scientific testimony focused on instances in which false gist memories had been created under controlled conditions (e.g., of having been lost in a mall, of receiving surgery for a fictitious injury), as well as on real-life examples of false memory for the gist experience (e.g., recovered memories of sexual abuse, alien abduction memories). The defendant was found innocent of capital murder.

Keywords

false memory; false confession; interrogation; fuzzy-trace theory; verbatim-gist distinction; capital punishment

It is not widely understood that in criminal trials, it is uncommon to possess physical forensic evidence that bears directly on the guilt or innocence of specific individuals. Criminal cases in the U. S. have been studied for the availability of different types of evidence (for a review, see Brainerd & Reyna, 2005), and two dramatic findings are that physical forensic evidence is not even gathered in the preponderance of cases, and when it is, it cannot be used, for various reasons, more than half the time. How, then, are guilt and innocence determined?

The answer is quite surprising to lay persons: by what people say—or sometimes write—about events. The determinative evidence about who did what, where, when, and to whom reduces to what witnesses and suspects report; memory reports in other words. It follows that the study of accuracies and inaccuracies in human memory is bedrock science for the

reliability of legal evidence. A simple maxim that I teach to law students is that the science of memory is as central to the law as biology is to medicine.

The most serious legal proceedings are no exception. To illustrate, when I reviewed files from the last five capital cases that I have worked on, as well as one that is in progress, I discovered in all of them that the evidence that had been used to charge and try the defendants was information secured through memory reports. This should not be interpreted to mean that physical forensic evidence is rarely presented in capital cases. On the contrary, a mountain of it is typically presented, most of which consists of details of crime scenes introduced through photographs, objects, and documents during the testimony of witnesses. At first, this seems reassuring, but the feeling evaporates because this type of evidence is rarely determinative of guilt or innocence: The fact that findings from medical examinations establish that a victim was forcibly drowned during an interval when a suspect does not have an alibi obviously does not connect that suspect to the victim. Physical evidence of the latter sort—say, the victim’s DNA on the suspect’s hands or clothing or vice versa—is what is typically lacking.

The determinative evidence that jurors must weigh, then, often consists of memory reports, but memory is fragile and fallible. Worse, memory reports routinely conflict: Witness A remembers Suspect 1 bragging about committing a murder, and Witness B remembers Suspect 2 bragging about committing the same murder—as in *State of Arizona v. De Cochea* (2004). Uncertainties about the reliability of memory reports are therefore the rule—so that jurors must rely on intuitive theories of memory to evaluate the relative credibility of different reports. It is precisely here where the science of human memory serves the cause of justice.

I exemplify this point by discussing a capital trial in which I provided scientific testimony. This trial was selected because (a) it demonstrates that a theoretical principle that is used to explain laboratory false memory (the verbatim-gist distinction; Brainerd & Mojardin, 1998; Brainerd & Reyna, 1998, 2012) is also fundamental to confession evidence; (b) the defendant was on trial for his life—which meant that if the jury got it wrong, an innocent man might die or a murderer might go free; (c) the case illustrates how multiple examples of powerful memory distortion factors that have been identified in controlled experimentation infect memory reports in capital trials; and (d) all of those factors were present in the memory of a single individual, who happened to be the defendant—so that the jury’s task of assessing the credibility of memory reports reduced to assessing the credibility of those of a single person.

Seven Memory Concerns

From the standpoint of memory distortion, a major way that criminal cases differ from memory experiments is that multiple variables that have been found to falsify memory in experiments (e.g., delay, fatigue, rumor-mongering) are all present together, in a sort of distortion stew. Because many such variables are present, researchers can be confident that memory reports are distorted in predictable directions, but because the variables cannot be disentangled, it is difficult testify as to which reports are most likely to be distorted. For

instance, a neutral memory interview that is conducted shortly after events is known to inoculate true memories against forgetting and to reduce false memories during later interviews (e.g., Brainerd & Reyna, 1996; Poole & White, 1995), but a suggestive interview is known to implant false information that will be remembered as true during a later interview (e.g., Bruck & Ceci, 1999; Howe, 1991; Loftus, Miller, & Burns, 1978; Zaragoza, et al., 2001). If Witness A, who was first interviewed non-suggestively *a month after a crime*, provides a report that exonerates a suspect while Witness B, who was first interviewed a day after the crime in a *highly suggestive* manner, provides a report that incriminates the same suspect, it is difficult to say which is more reliable. Different distortive influences are operating and are confounded with each other (long delay but non-suggestive interviewing versus short delay but suggestive interviewing).

In the present case, there were seven major memory concerns, all of which revolved around the defendant. They are described in Table 1. Note that they range from the fact that we all have spontaneous false memories of everyday events (e.g., remembering arriving home an hour earlier than we did), which seems innocuous at first but has huge consequences in legal evidence, to something whose consequences are obviously serious: false confessions induced by interrogation practices. A routine feature of capital trials is that defendants and suspects have provided memory reports under interrogation. Those reports may include confessions, which happened in this case. As the possibility of false confession loomed large, a list of techniques that figure in the gold standard interrogation procedure, the Reid method (Inbau et al., 2001), is provided in Table 2. Readers who are familiar with false memory research will recognize three features of these techniques. First, the retrieval method that is least likely to produce false memories, free narrative recall, is completely absent. Second, each of the techniques has been separately shown to stimulate false memories in controlled experimentation (Brainerd & Reyna, 2005). Third, the techniques can be roughly ordered, from top to bottom, on a dimension of increasing distortive power, with the techniques near the bottom (e.g., enforced agreement, lying about evidence) being extremely powerful fabricators of memories.

Case Timeline

The events leading up to this trial occurred in a Midwestern town of some historical prominence because it is the home town of a former President. The events occurred in the early hours of a Sunday morning, and they involved a 20-year-old man and his infant son. Shortly after 2 a.m., the man placed a 911 call requesting emergency assistance for his son, whom he said was not breathing. When the emergency responders arrived, they noted that he was frantic and crying about his son not breathing. According to the emergency responders, the man stated to them that he and the infant were sleeping in the same room, that he had been awakened by a loud noise, and that he had discovered that the infant was not breathing when he checked him. The responders found the infant in his crib, noted that he was not breathing, and noted that his skin had a bluish hue. The responders attempted to revive the infant but to no avail. The infant was transported to a local hospital, where he was pronounced dead. The death was recorded as “suspicious” because bruises were observed on the infant’s leg, though the bruises were not the cause of death.

A series of events followed that led to the father being arrested, charged with capital murder, and eventually tried for that crime. As these precipitating events will be analyzed from the perspective of memory research, a timeline that describes them is provided in Table 3.

Forensic Investigation and Preliminary Hearing

The trial occurred in two stages: a preliminary evidentiary hearing to determine the admissibility of his confession and, five months later, the trial itself. Before the preliminary hearing, I conducted a forensic investigation that centered on the question of whether there were serious reliability concerns about the memory reports that had been given during the father's two interrogations and during his police interview (which also involved interrogation tactics). From the perspective of the scientific literature, there were three potential areas of concern: (a) the established power of memory suggestion to generate self-incriminating false memories; (b) the fact that false confessions are statistically frequent in serious crimes; (c) the fact that the defendant belonged to a class of individuals whose memories are known to be especially vulnerable to distortion.

Concerning a, all of the memory reports were obtained using suggestive interrogation procedures in which the interrogator supplies the "memories" and attempts, by various means, to pressure the witness or suspect to agree (for details, see Table 3). The ability of such procedures to induce false memory reports of criminal events, including self-incriminating acts, is well established (for a review see Brainerd & Reyna, 2005). Concerning b, although the defendant's memory reports involving confessing to acts that could lead to capital punishment (for details, see Table 3), it is well established that interrogation techniques like those in Table 2 can cause people to falsely agree with suggested acts of capital murder (Kassin et al., 2010). For instance, in Cook County, Illinois—a jurisdiction that emphasizes interrogation-induced confessions in criminal investigations—Armstrong, Milles, and Possley (2001) documented 247 false confessions in murder cases during a single decade. A similar data source is provided by the Innocence Project (<http://www.innocenceproject.org/>), which has exonerated many defendants who were wrongfully convicted of murder and other crimes—approximately one-quarter of whom had confessed to the crimes. Concerning c, some individuals are especially vulnerable to spontaneous false memories and false memories from suggestion and, hence, to false confession. Three standard examples are children, elderly adults, and adults with developmental disabilities (for a review, see Brainerd & Reyna, 2005). The defendant's school records revealed that he was developmentally disabled: He had been identified as an at-risk child as a preschooler, had received several years of special education services, was legally classified as learning-disabled, and had low psychometric intelligence (more than 1 *SD* below the mean) but not low enough to meet the threshold for mental retardation (2 *SDs* below the mean).

Legally if not scientifically, there is an important distinction between pressure tactics and coercion. Many states have statutes that prohibit coerced confessions, and it is customary to hold preliminary hearings to determine whether confessions are admissible at trial. Such a hearing was held before this defendant was tried for murder. Prior the hearing, I conducted an interview with the defendant, which had two purposes. One was to administer a forensic memory instrument to obtain data about his susceptibility to spontaneous false memory and

suggestion that could be presented to the court. This instrument (Gudjonsson, 1984) exposes the subject to a narrative of events surrounding an assault and robbery, followed by a memory test that measures spontaneous false memory for the events in the narrative, followed by a second memory test that measures susceptibility to suggestion about the events. The defendant's scores were roughly 2 *SDs* above the means of available norms for susceptibility to both types of false memory. The other purpose of the interview was to ask a series of scripted questions that would supply additional information about susceptibility to the distortive influences that were present in the interview and interrogations. The questions fell into the following general categories:

- what he knew about the police officer who interrogated him and whether he reposed trust in the officer and considered that he was there to help him;
- whether additional, off-the-record interrogations had occurred in which his account was prepared, shaped, or rehearsed, during the two-day interval between his first and second interrogations;
- whether he knew at the time that things that the officer asked him to agree to were false;
- whether he believed that the officer was in a better position, at the time of the interrogations, to know the facts about his son's death than he was;
- whether he believed that he was supposed to report only things he remembered or also to report things that he thought the must be true from what he had been told;
- whether his self-incriminating statements (each of which was reviewed with him) were things that he actually remembered at the time of the interrogations;
- whether he knew that police officers could lie to him about the evidence against him;
- what his perceived level of fatigue had been during the recorded interview and the recorded interrogations;
- what he knew about his status as a special education student during his school years.

The gist of the defendant's answers was that he had known the interrogator for many years and trusted him implicitly, that off-the-record interrogations had occurred in which points had been rehearsed, that he knew that the acts that he had agreed to were false at the time but had agreed because he believed he would be better off because the interrogator was trying to help him, that he agreed to things that he did not remember but thought must be true because of what he was told, that he thought the officer knew the facts about his son's death much better than he did, that none of the five murder scenarios were acts that he remembered doing, and that he believed that it was illegal for a police officer to lie to him about anything. A final dramatic item was phantom recollection of the murder scenarios. The defendant stated that he knew for certain that he could not have committed the acts that he had agreed to, but that he now had vivid flashbacks of committing those acts. Readers who are familiar

with the high levels of phantom recollection that can be induced by suggestive questioning (e.g., Zaragoza et al., 2001; 2011) will not be surprised by this.

The above information, along with a summary of scientific findings on spontaneous and suggestion-induced false memory, was presented as part of scientific testimony to determine the admissibility the defendant's confession. Based on Table 3, most readers will probably regard his self-incriminating statements as coerced, but that does not meet the legal test of coercion under most statutes, which focuses on physical coercion and intimidation. Inflicting physical pain (e.g., the "enhanced" interrogation methods that we have heard so much about since the 11 September 2001 massacre in New York), inflicting extremes of temperature, or threatening to inflict physical pain meet the test under most statutes. Other circumstances that involve passive induction of physical pain—interrogation of suspects who have been deprived of sleep or food or bathroom breaks, sometimes for days—usually do not meet the test. Psychological coercion—threatening suspects with more severe charges, lying about the evidence against them, forcing them to confabulate, and so on—rarely meets the test. Except for fatigue, the coercion to which the defendant was subjected was purely psychological.

Throughout my testimony, there was persistent discussion (including questions from the court) of (a) the line between physical and psychological coercion and (b) the extent to which the two forms of coercion have analogous effects on people's memory reports. Scientifically, it is well known that psychological coercion distorts memory reports and induces vivid false memories (e.g., this defendant's phantom recollections), and that fact was carefully documented during testimony. Ultimately, the judge ruled against the motion—citing the specification of physical coercion in the state's statute but offering the opinion that the statute should evolve in the direction of psychological coercion in light of the scientific evidence.

In moving to exclude the confession, the defense strategy was *not* to secure a favorable ruling but, rather, to put a large amount of testimony on the record showing how extreme the psychological coercion had been (see Table 3) and documenting the known effects of such coercion from the false memory literature. It was felt that jurors would be revolted by the interrogation tactics, which proved to be correct, and that the scientific testimony would reinforce their disgust by documenting that the distortive effects of the tactics were well known to researchers.

Other major topics of the preliminary hearing testimony were: (a) basic theoretical principles of false memory; (b) individuals who are at increased risk of spontaneous false memory and susceptibility to suggestion, focusing on developmentally-disabled individuals; (c) scientific findings on false confession, emphasizing laboratory demonstrations of false confession accompanied by phantom recollection and examples of known false confessions to murder pursuant to interrogation; (d) how suggestion affects people's memories; and (e) scientific findings on specific techniques that featured in the defendant's interrogations. To my astonishment, a major dispute that surfaced during cross-examination and continued during the trial a few months later revolved around an explanatory principle of fuzzy-trace theory (FTT), the verbatim-gist distinction. The dispute was over whether research had established

that memory suggestion or spontaneous distortion processes can falsify people's gist memories of experience, or only their verbatim memories.

It turned out that this is pivotal to whether the defendant's confession ought to be accepted as reliable, despite all the psychological coercion. It comes as a shock to most lay persons that whether or not specific acts that suspects remember are demonstrably false is not crucial to whether their confessions are represented as true in court. As long as suspects agree to committing acts *of the type* they are charged with (i.e., capital murder), they are deemed to have confessed to the crimes (the gist) on the ground that innocent people do not confess; that is, their memory for the gist of what they did is viewed as accurate, even in the face of errors in memory for verbatim details. In the present case, everyone agreed that many, if not most, of the acts to which the defendant had agreed were false because (a) he had agreed to inflicting his son's injuries in five different ways (see Table 3), and (b) all five scenarios were difficult to reconcile with medical evidence. The key scientific question, then, was whether memory distortion factors can falsify gist as well as verbatim memory (i.e., create a "deliberate injury" gist when the true gist is "accidental injury"). Readers of *Memory* know that the answer is yes; that it is indeed possible to manufacture gist memories from whole cloth (e.g., see Chrobak & Zaragoza, 2008), including false gist memories of whole life experiences that, like crimes, are emotionally distressing—ranging from fictitious memories of having been lost in a mall or have received surgery for an injury to being sexually abused or abducted by aliens. However, the prosecution maintained that the answer was no, and it was up to the jury to decide.¹ By sheer coincidence, suggestion-induced false memory for child and adolescent sexual abuse had been receiving wide-spread media attention for more than a year, so trial jurors were already be comfortable with the possibility that one's memory for the gist of experience can be falsified by suggestion.

Trial Testimony

In cases such as this, where scientific evidence is first presented during preliminary hearings, the eventual trial testimony is usually anti-climactic. When it comes to the specific research that bears on the case, it will all have been said before, and then some because the scope of trial testimony is narrower than that of a preliminary hearing—unless, of course, some dramatic new data have recently been published. Further, you will have already responded to any major challenges to your testimony during cross-examination and have had any *faux pas* rehabilitated during re-direct examination. Naturally, the cross-examining attorney will strive to identify new challenges that will thoroughly impeach your trial testimony. That will rarely happen, as long as your opinions were firmly grounded in the scientific literature. If, on the other hand, those opinions were based on unreliable foundations such as professional wisdom, experience, or training, you deserve what you get, and if you get what you deserve, you will not make the same mistake twice.

The defense's emphasis at the preliminary hearing on suggestion-induced gist memory for false traumatic events, such as recovered memories of sexual abuse, had two effects on the

¹In the law, the criterion for yes and no answers is to a *reasonable degree of scientific probability*, not certainty. Therefore, it is possible for opposing attorneys to maintain mutually inconsistent interpretations of the same experimental data by disputing whether or not those data reach the "reasonable degree" threshold.

prosecution's presentation of its case at trial. First, rather than challenge all examples of false memory for the gist experience, the focus was on cutting the ground from under this major source of illustrations—the thinking being that if jurors believed that scientific support for it was shaky, they would take a dim view of other examples of false gist memories. Second, it was decided to present a rebuttal witness at trial who would challenge scientific findings on false recovered memory of sexual abuse. Because those findings were extensive, the chances were not promising that this strategy would be successful, but as the case seemed to hinge on whether the jurors would regard the gist of defendant's confession as true, the strategy had to be tried.

Once a trial has begun and the attorneys' attention is fully occupied, scientific witnesses mostly wait at remote locations (my routine is to find a local track or park and concentrate on running) until called to testify. Then, you travel to the courthouse, take the oath, testify, leave the courtroom, and step on plane for home. Again, an exception, which happened in this case, is when the opposing attorney presents a rebuttal witness, in which event you remain to hear the rebuttal testimony and provide re-rebuttal. All of this is a fair summary of the scientific testimony in this case, except for the fact that the rebuttal witness' testimony was deemed to be so inept that there was no need for re-rebuttal testimony, even though I had prepared extensively for re-rebuttal. I should add that the circumstance of preparing extensively for testimony, only to learn at the last minute that it will not be given, is prototypical of this sort of work.

Verdict

In addition to first degree murder, the defendant had been charged with and simultaneously tried for involuntary manslaughter of a victim less than 12-years-old. The latter charge carried a 10 year sentence, which would be reduced to 8 years for time served prior to trial. The judge instructed the jurors to return one of three verdicts: (a) guilty of first degree murder; (b) guilty of involuntary manslaughter; (c) innocent of both charges. In capital cases, the first verdict does not mean that the jury is sentencing the defendant to death because that must be decided in a separate trial, during which other types of evidence are presented. The jury returned verdict b.

No juror is obligated to discuss how a verdict was reached, and if none do, it remains a mystery. However, some of jurors in this case were willing to be interviewed, and the essence of what they said centered on two contrasting themes. On the one hand, there was unanimous agreement that the defendant was not guilty of first degree murder and, perhaps, should never have been charged with it, considering the evidence. Among the reasons cited, two stood out—the testimony of character witnesses, which convinced jurors that the defendant was a gentle person who was easily misled by people in authority, and the scientific testimony, which convinced jurors that there were firm grounds for believing that the defendant's self-incriminating statements had been manufactured by interrogation tactics. On the other hand, the jurors could not find that the defendant innocent of any culpability. A life had been lost before it had been lived, and there was unanimous agreement that the defendant had been at least negligent in allowing that to happen, which led to a verdict of involuntary manslaughter. The jurors remarked that the defendant could

complete his sentence by age 28 and still have a full life before him. This verdict was not appealed, and the defendant began serving his sentence shortly thereafter.

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Table 1
Salient False Memory Phenomena in the Case

Phenomenon	Definition
Spontaneous false memory	People falsely remember some of the events of their lives, usually in ways that are consistent with the gist of their experience (Brainerd & Reyna, 2005).
False memory susceptibility	Some people are inherently more prone to spontaneous false memory than others, and susceptibility is increased by a number of well-studied variables (Weekes, Hamilton, Oakhill, & Holliday, 2007).
Memory suggestion	Post-event suggestions cause people to falsely remember some of the events of their lives. Although those false memories are usually consistent with the gist of people's experience, suggestion is capable of implanting erroneous gists as well (e.g., of living other lives, of having been lost in a mall)(Howe, 1991; Lotus, Miller, & Burns, 1978; Zaragoza, Payment, Ackil, Drivdahl, & Beck; 2001).
Suggestion susceptibility	Some people are inherently more susceptible to the effects of suggestion than others, and susceptibility is increased by a number of well-studied variables (Scullin & Ceci, 2001).
Phantom recollection	False memories can be accompanied by illusory vivid recollection of the physical details of the "occurrence" of events (Brainerd, Payne, Wright, & Reyna, 2003; Payne, Elie, Blackwell, & Neuschatz, 1996).
False confession	By falsely remembering events that did not happen, either spontaneously or pursuant to suggestion, people can falsely confess to crimes that they did not commit, even murder (Kassin & Kiechel, 1996).
Interrogation	Standard interrogation techniques that are used by police in the U.S. contain multiple factors that have been shown, in controlled experiments, to produce false memories (Brainerd & Reyna, 2005).

Table 2
Some Features of Standard Police Interrogation Techniques that Increase False Memories

Technique	Definition
1. Yes/no	Interviewees are asked to agree/disagree with pertinent items of information.
2. Multiple choice	Interviewees are asked to choose between alternative items of information.
3. Fill-in	Interviewees are asked to provide a pertinent item of information that is assumed to be true by interrogators.
4. Repetition	Interrogators ask questions again and again, even though they have been clearly answered.
5. Evidence exposure	Interrogators familiarize interviewees with evidence (e.g., pictures of victims or suspects or of details of crime scenes) that they will later be asked to "remember."
6. Challenges	Once questions have been asked and answered, the answers are rejected, challenged, and interviewees are asked to consider whether other answers are correct.
7. Forced agreement	Interrogators demand that interviewees accede to pertinent items of information that interrogators assert to be true.
8. Forced disagreement	Once questions have been asked and answered, the answers are rejected, interviewees are told that their answers are false, and they are asked to change previous answers.
9. Negative reinforcement	Interviewees are punished (e.g., kept awake, deprived of food) or threatened with punishment (e.g., being charged as an accomplice in the crime under investigation, being charged with making false statements to a police investigator) for failure to provide pertinent items of information (e.g., confirming a victim's description of a suspect).
10. Positive reinforcement	Interviewees are rewarded (e.g., with sleep, with food) or promised future rewards (e.g., not being charged as an accomplice, not being charged with making false statements to a police investigator) for providing pertinent items of information (e.g., confirming a victim's description of a suspect).
11. False evidence	Interrogators lie to interviewees about pertinent items of evidence, by telling them that pertinent items of information have already been evidence established as facts by other means.
12. Appeals to External authority	Interviewees are told that based on considerations of logic, fact, or common sense, pertinent items of information must be true and that they obviously are lying if they do not agree with such information.
13. Stereotype Induction	Interviewees are provided with true or false information about suspects that is consistent with crimes that are under investigation.
14. Confirmation bias	Interviewees are interrogated by investigators who are highly knowledgeable about the detailed facts of the case and who have interviewed victims and other witnesses.

Table 3
Timeline for Key Events in the Case

Event	Narrative
1	The infant’s mother was interviewed by the police on Sunday morning. There was no evidence that the death was due to unnatural causes, but because it had been classified as suspicious, the police pursued the hypothesis that the father had beaten the infant to death. Hence, they attempted, through suggestive questioning, to obtain information that the mother’s relationship with the father was rocky and that the father was angry, aggressive, and prone to hitting her or her son. The mother denied these suggestions.
2	The father was then interviewed, immediately after the mother. He was extremely fatigued from having slept little for two days. Although this was an interview rather than an interrogation, many interrogation tactics were used to produce statements of motive for murdering the infant. Multiple suggestions were made that he had frequent fights with the infant’s mother and that he was angry with her on Saturday evening for leaving him alone to care for their son while she attended a family reunion, the latter being the motive that the police were attempting to establish. The father denied this. The police officer repeatedly suggested that the father must have dropped his son that evening or that the infant had fallen. The father stated that infant had received a minor bruise when he bumped his head on the coffee table after a feeding. The officer then lied about the evidence, saying that he had received detailed information about the infant’s injuries from the medical examiner that disproved what the father said. The officer made suggestions that the father had been furious with the mother and that he had shaken, squeezed, and deliberately battered his son, all of which were denied.
3	The first official interrogation of the father, who was now classified as a murder suspect, was conducted one hour later, when he was still in a state of severe sleep deprivation. In an attempt to secure his trust, the interrogating officer was a long-time friend who has been the father’s Little League baseball coach. The interrogator accused the father of lying in the earlier interview, and he made repeated strong assertions that the father was mad while was caring for his son and had pummeled him. This was denied. The interrogator repeated all of the assertions, saying the father was minimizing. Further strong suggestions about ways in which the infant had been battered were added, coupled with statements that the officer was trying to help the father get out a tight spot. To establish motive, the interrogator stated and restated that the father had been angry with the mother for leaving him to care for their son. This was repeatedly denied, but the father eventually agreed that he was “a little bit peeved.” Having secured agreement with the anger theme (motive), the interrogator lied to the father about details of the infant’s injuries, with which he was not acquainted, saying that they disconfirmed the father’s account. The father agreed with some of those suggestions, which were therefore false memory reports. During the course of the interrogation, the interrogator manufactured multiple different accounts of the infant’s injuries, all of which were asserted to be true but each of which was denied. Eventually, the father agreed with certain features of one of the interrogator’s accounts—saying that he could not remember those things happening and that he was agreeing because he could not think of another explanation. The interrogator made further suggestions about the injuries that were inconsistent with later autopsy results and then arrested the father on suspicion of murder. Other information that emerged during the interrogation indicated that the rather was either developmentally disabled or retarded. Such individuals are known to be highly susceptible to suggestion and to spontaneous false memory,
4	A second interrogation was conducted by the father’s former Little League couch two days later. The strength of the interrogation techniques was increased to those from level 7 onward in Table 2. The interrogator told the father that he would help him craft an account that would agree with the facts. Although the interrogator was now familiar with the autopsy results, he continued to lie about them results to secure agreement with an account that was consistent with murder, saying he had been told by the medical examiner that the infant’s head had been hit with a force that was equivalent to more than a two-story fall and that the father’s account was medically impossible. To encourage agreement with a different account, the interrogator stated that things would go better for the father, that the prosecutor would throw the book at him unless he cooperated, and that god would punish him in the afterlife unless he cooperated. The interrogator suggested five different ways in which the infant had been murdered. Following initial denial of each, the father eventually agreed with some version of each, saying such things as “I must have,” “it could have happened like that,” and “it must have happened like that.” Following those agreements, the interrogation

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Event	Narrative
	was quickly terminated, and the father was returned to his cell.
5	Shortly thereafter, the father requested to speak to a guard. He stated that the interrogator had put words in his mouth and induced him to agree with things that were not true. This statement was duly reported by the guard. Such recantations are standard features of coerced-compliant false confessions (Kassin et al., 2010). However, the father was charged with first degree murder of his son, and following a review of the case for the presence of aggravators that warrant capital punishment, the State's Attorney requested the death penalty.

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