

Movie review on false confessions

[Law](#), [Evidence](#)



False Confession

A false confession refers to an admission of guilt by a suspect whereas the confessor is not responsible for the offence charged. Such an event can be as a result of incompetency on the part of the accused, insanity or may as well be induced through coercion. The story of the Norfolk Four as depicted through the film, *The Confessions*, is a classic case of false confession by the accused persons who were consequently convicted. It is also critical to note as evident in the film that the Norfolk Four waived their rights as laid down in the Miranda case. The possibility of false confessions by accused person may seem farfetched but it regularly presents itself in case law. In response, courts have developed jurisprudence in this respect by establishing rules to look into the detection and rejection of such false confessions. These rules are known as confession rules and they require the establishment of a set of facts before a guilty plea can be accepted by the court.

In the film *The Confessions*, Producer Ofra Bikel conducts an investigation into the conviction of four men who were former U. S Navy sailors who are herein referred to as the Norfolk Four. The four sailors had been convicted of the offence of rape and murder of a Norfolk woman named Michelle Bosko in the year 1997. In the film, the producer conducts the first television interviews with the Norfolk Four following the release where she learns of the tactics that the police used during interrogation to secure the confession from the four. In particular, the Norfolk Four explains to her that the police employed high pressure techniques during interrogation which ranged from the threats of the death penalty, the deprivation of sleep as well as intimidation which made the defendants confess to the crimes whereas they

were not guilty. The four were consequently convicted of the offences charged on their own confession despite the absence of any physical evidence linking them to the crime.

One of the Norfolk Four gave reasons for the waiving of Miranda rights on the reasons enumerated above which ranged from intimidation, sleep deprivation, and the persistent threat of a death penalty. 25 year old Danial Williams who had only been married for 11 days at the time of the charge explained the reason attending their confession following 11 hours of grueling interrogation by detectives and the police. He explained to the producer that they were huddled in a small room where a police officer sitting across the table facing them would yell at them, calling them liars and poking them in the chest with the finger. In addition, Williams described the situation during the interrogation stating that the trend continued throughout the night with the police telling them to tell the truth so that he would help them. After a back and forth, Williams stated that he confessed to the commission of the offence to the Norfolk police detectives. Following the adduction of his confession in court, it was found to be inconsistent with the forensic evidence prompting the police to go back and seek further confession. Upon return of the police detectives, Williams gave them further confession that better fitted the facts of the forensic evidence.

The rights attendant to a suspect during interrogation or upon arrest are as enunciated by the Supreme Court in the case of *Miranda v Arizona* and were, thereafter, known as the Miranda rights. These rights now stand as inviolable rights which must be adhered to, if the evidence obtained through this means is to be admitted. These rights include the right to remain silent, the

right to have an attorney and where the suspect cannot afford one, to have one appointed for him. Further, there is a right against self-incrimination where anything the suspect says to the police will be admitted as evidence against him in a court of law. This right against self-incrimination is also embedded in the Fifth Amendment of the constitution which avails the right to a suspect to refuse to answer a self-incriminating question. The police must make known these rights to the suspect upon arrest or during interrogation. It must be borne in mind also, that the Miranda rights become effective upon arrest by a police officer and not before. However, questions posed to a suspect and the answers given thereto, before arrest can also be used against him in a court of law.

The law as stated in the Miranda case by the Supreme Court and as enshrined in the Fifth Amendment acts to exclude the admission of statements or evidence gained by police during interrogation without making known to the accused, his rights. It is a rule of criminal procedure meant to protect suspects who are in custody and who are subject to direct questioning that may violate their rights. Without doubt, if the principles espoused in the Miranda case were given preeminence and the rights therein respected, the evidence of admission by the Norfolk Four about the confession to crime would be excluded. Outside this confession, suspects would surely have been acquitted as there is no other physical evidence, circumstantial or otherwise, that tended to link the four to the offence. As already set out, the four pleaded guilty and the court found them to be guilty despite the absence of physical evidence linking them to the commission of the crime. The DNA of the four suspects failed to match with

that found at the scene of the crime thereby ruling out the possibility of the suspects having committed the crime. Instead, there was a DNA match with that of a fifth man by the name Omar Ballard who was a convicted rapist. Ballard confessed having committed the offences and later explained how the police forced him to implicate other persons, namely the Norfolk Four though they were not involved in the crime. For instance, when the police found that the DNA match of Williams failed, they picked up his roommate Joe Dick and initiated an interrogation. Joe Dick who was the other suspect charged in this case also confessed to the offence after a grueling session with notorious police detective Robert Glenn Ford who was well known for obtaining confessions. Dick explained of how the detective kept on raising his voice and telling him that he was lying and that he would prove and obtain a death penalty against him. Overcome by tiredness and emotional turmoil, Joe Dick made a false confession to the effect that he had committed the offence. Dick then implicated another sailor by the name Eric Wilson who also confessed to the charges of rape and murder against Michelle Bosko. Such a situation could have been avoided by giving effect to the rights afforded to suspects in the Miranda case. This would essentially mean that any evidence obtained by the police through such means would not be admitted in evidence at trial.

It is trite that the police and indeed, other investigators are restrained by law from using coercion in a bid to elicit confessions for the purpose of use during trial. Nonetheless, the implication that can be made throughout the film, *The Confessions*, is that the suspects were consistently threatened with capital punishment, namely, a death penalty. However, I do not think that

the same amounted to coercion that would have the effect of invalidating the information obtained in the confessions on this ground alone. In fact, the police in this respect only told them of the penalty that lies in wait for them in the event of conviction. It cannot surely be said that the making known of the penalty is akin to intimidation even though it was given for another purpose—namely that of eliciting confessions.

The Michigan state enacted a custodial interrogation law that requires police officers to video record interviews of interrogations done, in a bid to rein in, on false confessions. The new state law promulgated earlier in the year seeks to ensure that all evidence adduced by the prosecution from interrogation is captured to avoid prejudice to the accused person. It is also significant to note that the law as was passed in Michigan cuts both ways both in aid of the prosecution as well as the defense. In this respect, the law will serve to strengthen the case for the prosecution whenever the defendant is guilty and bolster the defense's case whenever the confessions have been obtained through coercion or distorted statements. Again, wrongful convictions based on false confessions are not only a slight on the accused persons but also to the tax payer who is forced to fork out millions of dollars in compensation to the accused. I am of the opinion that the law as enacted in Michigan will have the effect of reducing or averting the admission of false confession as was the case in the Norfolk Four case. This is because the jury or judge will have the opportunity of looking into the video interview or audiovisual recording of the interrogation and ascertain whether the same information was obtained contrary to law.

Some of the implications of the new Michigan law are that the police will be

required to record interviews for any person arrested for a crime punishable by imprisonment for over 20 years as far as the department meets the standards set by the Michigan Commission on Law Enforcement Standards. Another implication of the new law is that the taxpayer will have to pay more to finance this apparently noble idea. The state Legislature is expected to approve the funding for the departments to enable them comply with the law. Again, the law does provide an opportunity for an arrested person to waive his Miranda rights, of which it must also be recorded in the video. The law could better serve its purpose if its application were to be extended to cover juveniles and insane persons who are arrested, since they mostly falsely confess to crimes they never committed.

References

- Bikel, O. (Director). (2010). *The Confessions* [Motion Picture].
- Cook, J. (2013, 3 23). Michigan law to require cops to video record interviews. *Macomb Daily News* .