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Confessions and Convictions:

How Different Types of Confessional Evidence Affect Conviction Rates

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### Abstract

In our court system, confession evidence is known to be especially persuasive. This study attempts to distinguish between the levels of persuasiveness of four different types of confession evidence. Four different types of sample confessions of a battery crime were randomly presented to participants. Conviction rates were assessed for each of the four types of confessions (voluntary, retracted, coerced-compliant, and coerced-internalized) and the severity of the sentence delivered by those who found the defendant guilty. Participants' results on the four confession types were compared against one another in the determination of which type of confession seemed to be the most influential in convicting the accused. Results show that the conviction rates differ significantly across the four conditions. It was found that the non-coerced conditions yielded the highest conviction rates while the coerced conditions yielded the lowest rate of conviction. These results indicate that although all conditions yielded a high rate of conviction, the coercive conditions had more effective in influencing the juror.

### Confessions and Convictions

When picturing the key elements of a courtroom, most would think of lawyers, judges, and jurors. While lawyers put in much time and effort in order to be prepared to present a strong case, jurors have the difficult job of weighing all the evidence presented in the courtroom. There are a number of different types of evidence jurors might encounter during a trial that include, but are not limited to: eyewitness evidence, forensic evidence, material evidence, character evidence, and confession evidence. Jurors must analyze all of the evidence presented to them in trial very carefully in order to decide whether each piece is valid and how instrumental it is in linking the defendant to the crime for which he/she is accused. Nevertheless, a juror's decision may be made easier by some pieces of evidence that stand out from the rest. Recent literature on the subject suggests that in a court of law, confession evidence is the strongest type of evidence that can be used to convict a defendant (Wakefield & Underwater, 1998). In more cases than not, confessions have proven to be the most influential type of evidence in the eyes of a juror. In affirmation of this point, Wakefield and Underwater (1998), state those individuals on a jury are more likely to convict on the basis of a confession than any other piece of evidence. In addition, Kassin & Neumann (1997) conducted a study on what type of evidence (confession, eyewitness identification, character testimony, or none of the above) yielded the highest rate of conviction in reference to four different types of crime (murder, rape, assault, theft). In their study, participants would read summaries of the crimes and were asked to judge whether or not the defendant was guilty or not guilty, and they were asked to rate how confident they were in making their decision on a Likert scale. As a result of this study, Kassin & Neumann (1997) discovered that the most incriminating form of evidence was confession evidence.

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It should be noted that there are many different types of confessions and some may in fact have stronger validity than others in the eyes of a juror. When a jury deliberates a case they must make sure that they analyze each piece of evidence for its validity due to the importance of the decision at hand. Just as important to all evidence, when analyzing a confession for validity, there are many factors jurors must consider. These factors include, but are not limited to, whether the confession was voluntary or coerced, whether the individual is psychologically stable, the duration of interrogation before confession, and the deprivation of sleep/food during the interrogation process (Kassin, 1997). While the interrogation process may not be made clear to the jurors, it is important to discuss how the interrogation process can produce false confessions that make it to the courtroom. Kassin (1997) discusses the interrogation process as two-fold; one part of the interrogation is to obtain a full or partial confession and the other is to obtain crucial evidence that is relevant to the case. Often, interrogators will go to long lengths to reach these goals which can include deception, trickery, and psychologically coercive methods in order to obtain that crucial evidence because they know the weight it carries when jurors are deliberating the evidence. Each individual juror must come to agreement on decisions made and confession evidence plays a huge role in each individual juror. Thus, if a confession has the potential to make or break a case, it should seem obvious that the study of confessions is an important topic to delve deeper into.

Prior to discussion about this study, one should be aware that there are many types of confessions that may be submitted in a trial. For this study, four of the most prevalent forms of confession evidence will be used. Previous research suggests that voluntary confessions, retracted confessions, coerced-compliant false confessions, and coerced-internalized false confessions are the most prevalent forms (Kassin, 1997; Kassin & Kiechel, 1996; McCann,

1998). Voluntary confessions are those in which there is no external pressure used to attain the confession. A retracted confession is the same as a voluntary confession up to the point in which the defendant retracts his confession from evidence. A coerced-compliant false confession is one in which an individual confesses after an intense interrogation for the reason of getting out of the situation (Kassin, 1997). The individual gets so fed up with the interrogation he will do anything to get out. Kassin (1997) goes on to define coerced-internalized false confession as a confession in which the defendant is made to believe that he/she is actually guilty of the crime that he/she is being accused of committing.

In reference to this study, the focus was on what type of confession evidence has the most influential effect on a juror. Since previous literature has concluded that confessional evidence is the most influential type of evidence to a jury, it is crucial that this study narrow the focus of previous research in hopes of teasing out which type of confession is the most influential to a juror. Since this was the first study of its kind, there is not much literature that one had at his/her side to formulate an educated hypothesis. Nonetheless, this lack of literature did not stymie the formulation of one. It is hypothesize that of the four types of confession evidence, that the self confession will yield the highest conviction rate, whereas the false internalized confessions will yield the lowest rate of conviction.

### Methods

#### *Participants*

In this study there were 252 total participants, after we eliminated 15 participants due to incomplete data. Of those participants there were 158 females and 94 males. The ages of the participants ranged from 18-62 years old with an average age of 24 years. Participants were recruited via the internet through Psychological Research on the Net (Krantz, 2008). Participants

were also contacted through email with a link to our study.

### *Materials*

This study measures the percent rate of conviction of defendants across four different types of confession evidence. There are four different versions of transcripts. The four versions were primarily the same except for a few choice sentences in the transcripts. In all four conditions the crime depicted was a battery in which there was a male perpetrator and female victim. The length of each of the four transcripts was one page. There was a transcript for the self-confession version, the coerced-internalized confession, the coerced-compliant, and the retracted confession. Each situation included the same base story of a battery crime. The first type of confession we are manipulating is the self confession (Appendix A). The second type of confession we are manipulating is a retracted confession (Appendix B). The third type of confession that we are manipulating is a coerced-compliant confession (Appendix C). Lastly, the fourth type of confession that we are manipulating is a false-internalized confession (Appendix D). The part of the confessions manipulated was the scenario leading up to the confession. The actual confession remained constant across the four confession types.

After the transcript was read in full, the participants answered a simple question that stated, "Do you feel the defendant in this transcript is guilty or not-guilty?" If the participant decided not to convict the defendant, he/she was done with the study. On the other hand however, if the participant decided not to convict the defendant, he/she was asked to assign a punishment to the defendant. There were five predetermined punishments which varied in their degree of harshness. The five point Likert scale included options of: 1) 0-1 years jail time, 2) 2-5 years jail time, 3) 6-10 years jail time, 4) 11-15 years jail time, and 5) 16-20 years jail time.

After completing the study, participants were asked to fill out a demographic

questionnaire. Participants were asked their age, ethnicity, gender, SES, religious affiliation, and level of formal education. Also, there was a place on the last page for the participant to type in any comments/concerns that they may have had with the questionnaire.

### ***Procedure***

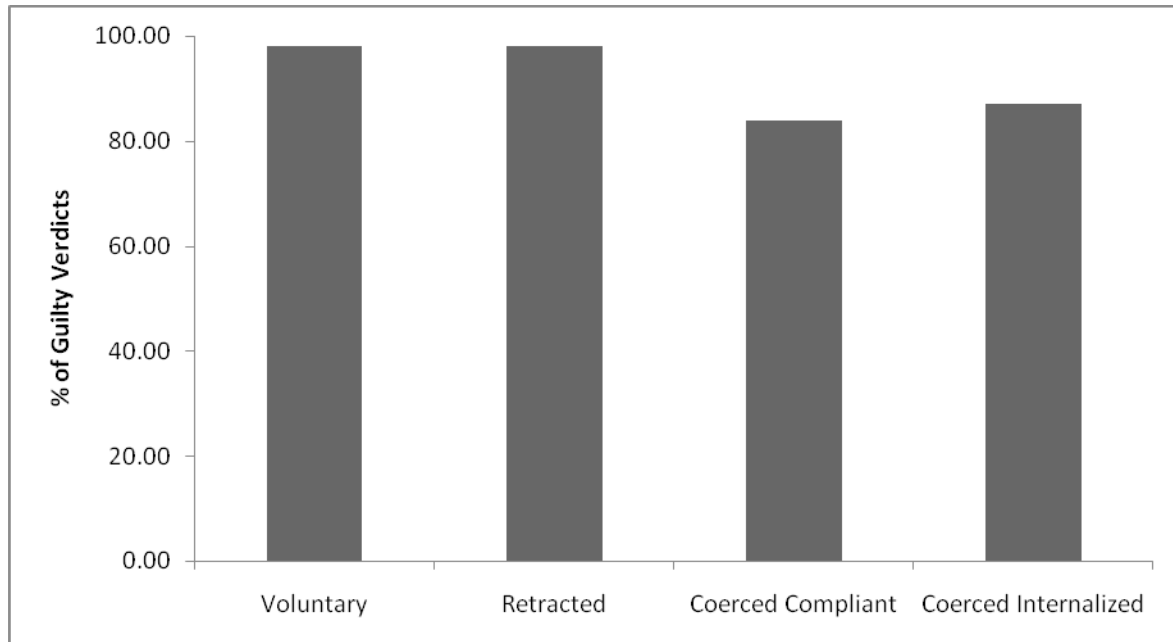
All participants followed the same procedure. Participants first opened a link to the web page that contained our study. This was advertised both on Psychological Research on the Net (Krantz, 2008) and through email to a number of participants. The first page the participants were presented with was the informed consent form, which the participants were instructed to read and agree with before clicking the link to the actual study. It should be noted that although our sample was not completely random, participants were still randomly assigned to one of the four levels of the independent variable after agreeing to the informed consent form. Next there was an instructions page. The instructions encouraged the participants to read the entire transcript and answer the questions with honesty and faith that they are participating in an anonymous study. Then, participants read both the scenario and transcript of the confession. The participants were allowed to assign a verdict and a possible punishment to the accused only after reading the confession. Upon completion of the study, a debriefing form was presented on the screen. The debriefing form included information about our study and what we were trying to find. It also included a link so the participants could see the results. Lastly, there was contact information for them to have in case they had any additional questions pertaining to the study.

### **Results**

In order to interpret the results a Chi-Square test of the conviction rates across the four conditions was run. In order to control for the different number of participants in each condition, a two-way chi-square analysis was conducted.

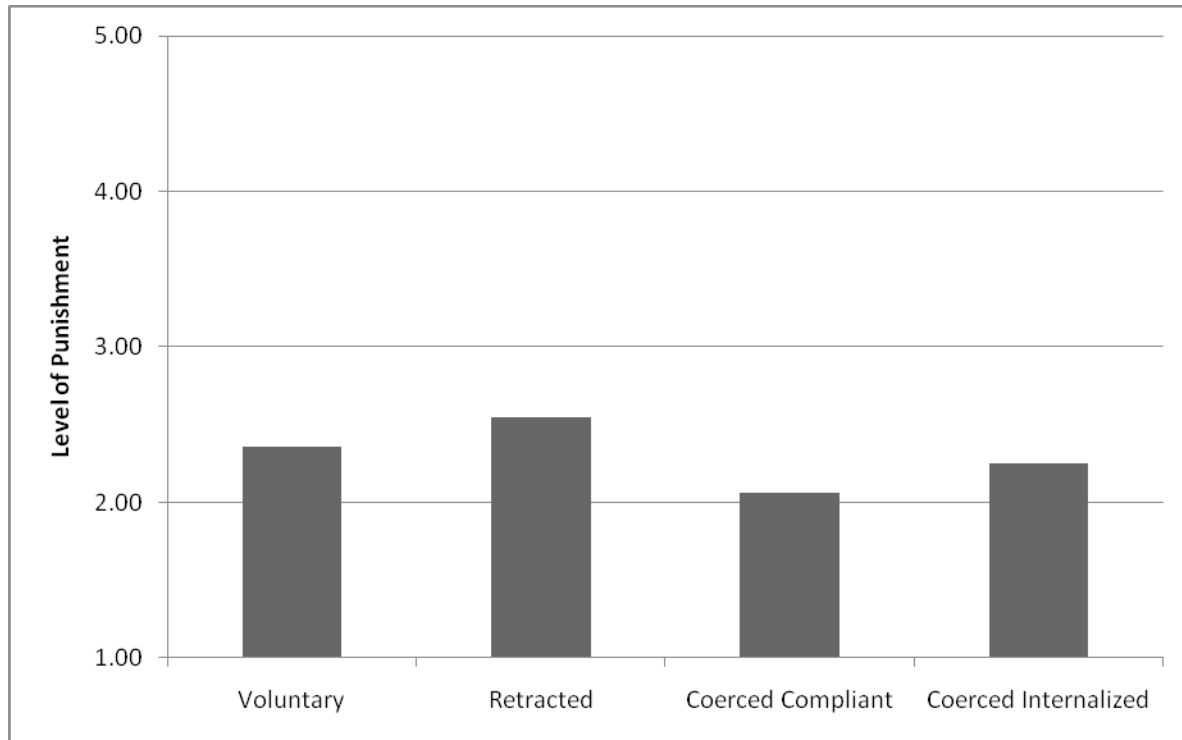
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Results show that the conviction rates across the four condition differed significantly at a level of,  $\chi^2(3, N = 252) = 13.8, p < .001$  (See Figure 1). As the graph shows, the non-coerced conditions had higher conviction rates than the coerced conditions.



*Figure 1:* Conviction rate in percentage across the four conditions.

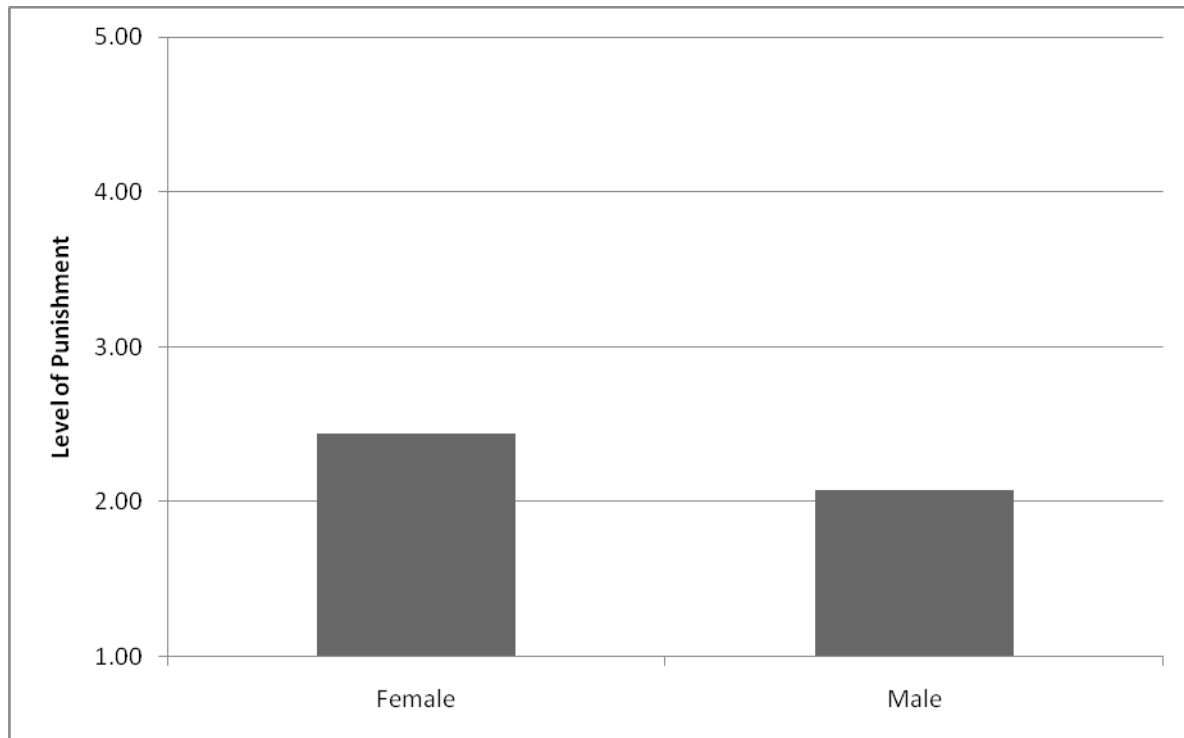
A between-subjects 2 (Gender) x 4 (conditions) two-way ANOVA was run to determine if the average punishment given by the participants in each condition differed significantly. The first variable in this test was punishment, which included five levels, and the second variable was condition, which included four levels. It is important to note that the participants in this study who delivered a verdict of not guilty did not answer the punishment question but were still included in the data analysis as a '0' instead of a 1,2,3,4, or 5. Results indicate that while some means across the four conditions differed significantly with other means, they did not differ significantly across all four conditions,  $F(3, 252) = 1.45, n.s.$  (See Figure 2).



*Figure 2:* Mean level of punishment across four conditions.

The last results that were analyzed included a number of tests run in order to determine if there was any significance across gender in either the conviction stage or the punishment stage.

Results of a two-way 2 (Gender) x 4 (conditions) ANOVA indicate a main effect for gender across punishment in which females assigned significantly harsher punishments than that of their male counterparts,  $F(1, 252) = 4.295, p = .039$  (See Figure 3).



*Figure 3: Mean punishment across gender.*

### Discussion

The hypothesis originally stated that of the four types of confession evidence, that the self confession would yield the highest conviction rate, whereas the false internalized confessions would yield the lowest rate of conviction. After analyzing the data, the hypothesis was partially supported. Overall, it was found that the non-coerced conditions yielded the highest conviction rates. It was hypothesized that the coerced internalized condition would yield the lowest conviction rate. Nevertheless, the results show that the coerced compliant condition yielded as low of a conviction rate.

From the data, it was discovered that overall in each condition at least 84% of the participants convicted the defendant of the crime. This shows the overall power of confession evidence; especially when the confession is non-coerced. As can be observed in the results of

this study, confession evidence is powerful no matter how it is obtained; it is no wonder that police use coercive interrogation tactics in the solicitation of confessions.

Essentially, it is advantageous for police to utilize coercive tactics because they know that if they can solicit a confession from the accused that they will more likely than not get a conviction due to the effectiveness of confession evidence. This may explain why Kassin (1997) found that, interrogators will go to long lengths to reach these goals; including coercive methods in order to obtain that crucial evidence because they know the weight it carries when jurors are deliberating the evidence. In addition, this may also explain the increasing trend that has been observed by Kassin (1997) that as of late, more and more confession evidence has been submitted to courts across the nation.

Although some of the results could be explained or at least supported by past research, some was not. It was found that even though there was no significant difference across the four conditions in the sentencing phase, there was a significant main effect across gender in the punishment phase. It was found that females were more likely to convict across conditions. The reason for this is most likely due to the nature of the crime (male beating female). In a traditionally male dominated society, the victimization of females by males is considered especially heinous, and one can imagine it being interpreted as even more heinous by those potential female victims within the population. In application to the real world, what this means for lawyers, is that if they are on the side of the prosecution, and the defendant is a male accused of battering a female, then they would want a majority of the jurors to be female and vice versa.

Following from the previous discussion of the ways in which this study may be applied to the legal realm, it would be beneficial for future replications of this study to manipulate the gender of the accused and of the victim. It is theorized that if gender were manipulated then

perhaps there would have been less of a gender bias in both the sentencing and punishment stages of the study. Whereas it is believed that a male victimizing a female crime would be considered especially heinous by our society, it is not believed that this would be the case had the gender of the accused been the same, or had the crime featured a female victimizing a male. Had the latter occurred, it may even be hypothesized that the jury might even be more sympathetic towards the accused; simply because it might appear to jurors that justice was served in the sense that the traditional “underdog” came out on top.

In addition to manipulating the gender of both the accused and the victim of the crime, it may also be beneficial for researchers to increase the length of the transcripts used in describing the crime and the confession. This would allow for more details of the crime and confession to be conveyed to the participants. Furthermore, with a longer transcript, researchers could easily manipulate the events surrounding the crime to test and see if different scenarios might yield different results.

Lastly, it was reported by some of the participants that the conviction question, as well as the punishment question being positioned side by side on the same page was somewhat troubling. In the future, the sentencing question of whether or not one is guilty or not-guilty of the crime should be positioned on a separate page from the punishment question which asks participants who choose a sentence of guilt to assign a punishment to the guilty offender. It can be inferred that by allowing participants to see the punishment options prior to assigning a sentence, that they might be influenced to some degree to assign a guilty verdict. On the other hand, if the two sets of questions were on separate pages, then bias towards choosing a guilty verdict may be reduced simply because the punishment options would remain out of the participant’s consciousness until he/she had already assigned a guilty verdict.

In summary, prior to this study, a void could be found in the psychological research conducted under the headings of evidence, the law, and juror bias. Nevertheless, this study has successfully begun to fill that void. Although previous research was able to shed knowledge in relationship to what types of evidence was generally more influential to a group of jurors, none was found that studied specific variations within those evidence types. This study tackled what the previous research had left out. It delved further into the relationship between what specific types of confession evidence had the strongest influence on juror sentencing and punishment assignment than had any other study conducted prior. Given the results of this study, researchers in the field of academia and those practicing in the legal field alike can benefit. Whereas attorneys may take the findings of this study and instantly apply them in their practice, researchers have also been left with valuable instruction as to the direction in which they might take similar research in the future.

Appendix A

On the night of Dec. 15<sup>th</sup> 2006, Mr. Lemke was arrested and charged with battery. Mr. Lemke was arrested at his residence for allegedly beating his wife with a fire stoking iron in their living room. Though she was not dead, she was found in a non-responsive state on the living room floor. After his arrest, Mr. Lemke was transported to the Jefferson County police department for further questioning. Mr. Lemke's interrogation by the Jefferson County police lasted just under an hour before he broke down and voluntarily confessed to the crime. Mr. Lemke admitted in his voluntary statement:

"I did it. I just wanted her to stop. She kept pushing and pushing as if I wasn't already under enough stress. I had been unemployed from Microsoft for about a month and was not bringing home any money. I got fired because I was found responsible for a glitch that was found in an accounting program that I had created. The program sold like wildfire, but Microsoft lost millions to the companies who lost money using the program. To make matters worse, we just found out that our daughter was pregnant and with a baby coming we knew that we were going to have to help support her financially. There was just too many things falling apart, and I couldn't handle the stress. Night after night I would come home from searching for a job and my wife would yell and scream at me. She would call me names and tell me that I was a poor husband and father. She would say things like, 'I can't believe I married a loser!' Eventually, after about three weeks of verbal abuse and accumulating stress I snapped. We were in the living room and she was screaming at me as usual, and I just couldn't take it anymore. I had to shut her up! So I picked up the fire stoker from its holster and

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hit her with it multiple times. I don't know what came over me but I couldn't stop hitting her with it until she was unconscious. I'm so sorry. I never meant for this to happen. I was trying my best to make things right."

Appendix B

On the night of Dec. 15<sup>th</sup> 2006, Mr. Lemke was arrested and charged with battery. Mr. Lemke was arrested at his residence for allegedly beating his wife with a fire stoking iron in their living room. Though she was not dead, she was found in a non-responsive state on the living room floor. After his arrest, Mr. Lemke was transported to the Jefferson County police department for further questioning. Mr. Lemke's interrogation by the Jefferson County police lasted just under an hour before he broke down and voluntarily confessed to the crime. Mr. Lemke admitted in his voluntary statement:

"I did it. I just wanted her to stop. She kept pushing and pushing as if I wasn't already under enough stress. I had been unemployed from Microsoft for about a month and was not bringing home any money. I got fired because I was found responsible for a glitch that was found in an accounting program that I had created. The program sold like wildfire, but Microsoft lost millions to the companies who lost money using the program. To make matters worse, we just found out that our daughter was pregnant and with a baby coming we knew that we were going to have to help support her financially. There was just too many things falling apart, and I couldn't handle the stress. Night after night I would come home from searching for a job and my wife would yell and scream at me. She would call me names and tell me that I was a poor husband and father. She would say things like, 'I can't believe I married a loser!' Eventually, after about three weeks of verbal abuse and accumulating stress I snapped. We were in the living room and she was screaming at me as usual, and I just couldn't take it anymore. I had to shut her up! So I picked up the fire stoker from its holster and

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hit her with it multiple times. I don't know what came over me but I couldn't stop hitting her with it until she was unconscious. I'm so sorry. I never meant for this to happen. I was trying my best to make things right."

After having confessed to the crime however, Mr. Lemke decided to retract his guilty plea made on the 15<sup>th</sup>, to a plea of not guilty on the 22<sup>nd</sup> of the same month. To explain his decision he stated he was in shock at the time of his arrest and that he was not in the right state of mind to make a plea of guilty. In retrospect he is certain that though he and his wife did argue that night, he did not beat her.

Appendix C

On the night of Dec. 15<sup>th</sup> 2006, Mr. Lemke was arrested and charged with battery. Mr. Lemke was arrested at his residence for allegedly beating his wife with a fire stoking iron in their living room. Though she was not dead, she was found in a non-responsive state on the living room floor. After his arrest, Mr. Lemke was transported to the Jefferson County police department for further questioning. Mr. Lemke's interrogation by the Jefferson County police lasted three hours before he finally confessed to the crime. During the interrogation process, police told Mr. Lemke that they had tangible DNA evidence that directly linked him to the crime. They told him that if he did not confess, he would receive a much harsher sentence. It should be noted however, that the police did not in fact have any such evidence. Soon after hearing about the evidence, Mr. Lemke admitted in his voluntary statement:

“I did it. I just wanted her to stop. She kept pushing and pushing as if I wasn't already under enough stress. I had been unemployed from Microsoft for about a month and was not bringing home any money. I got fired because I was found responsible for a glitch that was found in an accounting program that I had created. The program sold like wildfire, but Microsoft lost millions to the companies who lost money using the program. To make matters worse, we just found out that our daughter was pregnant and with a baby coming we knew that we were going to have to help support her financially. There was just too many things falling apart, and I couldn't handle the stress. Night after night I would come home from searching for a job and my wife would yell and scream at me. She would call me names and tell me that I was a poor husband and father. She would say things like, 'I can't believe I married a loser!' Eventually, after about three weeks of verbal abuse and accumulating stress I snapped. We were in the

living room and she was screaming at me as usual, and I just couldn't take it anymore. I had to shut her up! So I picked up the fire stoker from its holster and hit her with it multiple times. I don't know what came over me but I couldn't stop hitting her with it until she was unconscious. I'm so sorry. I never meant for this to happen. I was trying my best to make things right."

Appendix D

On the night of Dec. 15<sup>th</sup> 2006, Mr. Lemke was arrested and charged with battery. Mr. Lemke was arrested at his residence for allegedly beating his wife with a fire stoking iron in their living room. Though she was not dead, she was found in a non-responsive state on the living room floor. After his arrest, Mr. Lemke was transported to the Jefferson County police department for further questioning. At first Mr. Lemke was very adamant about his plea of not guilty. However, after being confined in the interrogation room for nearly 32 hours and being asked the same questions over and over, Mr. Lemke finally broke down and voluntarily confessed to the crime. Mr. Lemke admitted in his voluntary statement:

“I did it. I just wanted her to stop. She kept pushing and pushing as if I wasn’t already under enough stress. I had been unemployed from Microsoft for about a month and was not bringing home any money. I got fired because I was found responsible for a glitch that was found in an accounting program that I had created. The program sold like wildfire, but Microsoft lost millions to the companies who lost money using the program. To make matters worse, we just found out that our daughter was pregnant and with a baby coming we knew that we were going to have to help support her financially. There was just too many things falling apart, and I couldn’t handle the stress. Night after night I would come home from searching for a job and my wife would yell and scream at me. She would call me names and tell me that I was a poor husband and father. She would say things like, ‘I can’t believe I married a loser!’ Eventually, after about three weeks of verbal abuse and accumulating stress I snapped. We were in the living room and she was screaming at me as usual, and I just couldn’t take it

anymore. I had to shut her up! So I picked up the fire stoker from its holster and hit her with it multiple times. I don't know what came over me but I couldn't stop hitting her with it until she was unconscious. I'm so sorry. I never meant for this to happen. I was trying my best to make things right."

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